
Attachment 1: CLEAN – Revised *Pro Forma* Regional Delegation Agreement

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
AND [REGIONAL ENTITY]**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”)

Effective as of January 1, 2016, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and [REGIONAL ENTITY], an organization established to develop and enforce Reliability Standards within the geographic boundaries identified in **Exhibit A** to this Agreement, and for other purposes. NERC and [REGIONAL ENTITY] may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824o) (hereafter “the Act”), which, among other things, provides for the establishment of an Electric Reliability Organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional

entities (“Regional Entities”) such as [REGIONAL ENTITY], provided that:

- (A) The Regional Entity is governed by —
 - (i) an independent board;
 - (ii) a balanced stakeholder board; or
 - (iii) a combination independent and balanced stakeholder board.
- (B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and
- (C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, [REGIONAL ENTITY] [is/is not] organized on an Interconnection-wide basis and therefore [is/is not] entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through [REGIONAL ENTITY] to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that [REGIONAL ENTITY] meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and [REGIONAL ENTITY], having operated under a predecessor

agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and [REGIONAL ENTITY] agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to [REGIONAL ENTITY] to propose and enforce Reliability Standards, consistent with Section 4(d) and the boundaries identified in **Exhibit A** pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. Representations.

(a) For purposes of its Delegated Authority, [REGIONAL ENTITY] hereby represents and warrants to NERC that:

(i) [REGIONAL ENTITY] is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. [REGIONAL ENTITY] is

governed in accordance with its bylaws by [select appropriate: an independent board/a balanced stakeholder board/ a combination independent and balanced stakeholder board]. Pursuant to these bylaws, no two industry sectors can control any [REGIONAL ENTITY] decision and no single industry sector can veto any [REGIONAL ENTITY] decision. The relevant criteria for the establishment of such bylaws are attached hereto in **Exhibit B**. No other [REGIONAL ENTITY] corporate governance documents shall be inconsistent with the criteria in **Exhibit B**.

(ii) [REGIONAL ENTITY] has developed a standards development procedure, which provides the process that [REGIONAL ENTITY] may use to develop Regional Reliability Standards [and Regional Variances, if the regional entity is organized on an Interconnection-wide basis] that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, [REGIONAL ENTITY] has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within [REGIONAL ENTITY]'s geographic boundaries as shown in **Exhibit A**.

(b) NERC hereby represents and warrants to [REGIONAL ENTITY] that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

(iii) NERC shall comply with its Certificate of Incorporation, Bylaws and Rules of Procedure, as from time to time adopted, approved or amended.

3. General Covenants.

(a) During the term of this Agreement, [REGIONAL ENTITY] shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and

be subject to any required Commission approval.

(b) [REGIONAL ENTITY] shall provide NERC with a copy of its Regional Entity Rules upon request by NERC.

(c) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of [REGIONAL ENTITY] under this Agreement without first obtaining the consent of [REGIONAL ENTITY], which consent shall not be unreasonably withheld or delayed.

(d) During the term of this Agreement, NERC and [REGIONAL ENTITY] shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

(e) For purposes of this Agreement, NERC shall collaborate with the Regional Entities in the development of guidance, policies and procedures, and oversight parameters as contemplated by this Agreement. In the event that collaboration is not successful on any such matter, the NERC President may issue a directive with respect to such matter pursuant to Section 8 herein, and such directive shall be binding upon [REGIONAL ENTITY].

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of [REGIONAL ENTITY] in this Agreement, [REGIONAL ENTITY's] corporate governance documents, the [REGIONAL ENTITY's] standards development process, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to [REGIONAL ENTITY] for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth in **Exhibit A**, provided, that [REGIONAL ENTITY] shall not monitor and enforce compliance with Reliability Standards for [REGIONAL ENTITY] or an affiliated entity with respect to reliability functions for which [REGIONAL ENTITY] or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to

[REGIONAL ENTITY] within, or additions to this delegation of authority to [REGIONAL ENTITY] beyond, the geographic boundaries set forth in **Exhibit A** are stated in **Exhibit A**.

(b) In circumstances where [REGIONAL ENTITY] or an affiliated entity is a Registered Entity, [REGIONAL ENTITY] shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce [REGIONAL ENTITY]'s or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit [REGIONAL ENTITY] from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified in **Exhibit A** that is within the United States. Any delegation of authority by Applicable Governmental Authorities in Canada or Mexico shall be governed by the law of such authority or a separate agreement and is outside the scope of this Agreement; provided, however, that both [REGIONAL ENTITY] and NERC shall endeavor to ensure that this Agreement and any such separate agreement are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, [REGIONAL ENTITY] shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, [REGIONAL ENTITY] shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords [REGIONAL ENTITY] reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards [and Regional Variances, if Regional Entity is organized on an Interconnection-wide basis] through [REGIONAL ENTITY]'s process. [REGIONAL ENTITY]'s process shall be consistent with the NERC Rules of Procedure and Commission directives. Any changes to [REGIONAL ENTITY]'s process shall be submitted to the NERC Board of Trustees for approval and upon approval, be submitted to the Commission for approval. Proposals approved through [REGIONAL ENTITY]'s process shall be reviewed by the NERC Board of Trustees after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board of Trustees shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. [REGIONAL ENTITY] may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, [REGIONAL ENTITY] shall enforce Reliability Standards (including Regional Reliability

Standards and Regional Variances) within the boundaries set forth in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and [REGIONAL ENTITY] agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, inter alia, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. [REGIONAL ENTITY] may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, [REGIONAL ENTITY] agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board of Trustees or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) [REGIONAL ENTITY] shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual ERO Compliance Monitoring and Enforcement Program Implementation Plan.

(c) [REGIONAL ENTITY] shall report promptly to NERC information regarding noncompliance with a Reliability Standard, and its eventual disposition by [REGIONAL ENTITY], as set forth in, and subject to the confidentiality and disclosure provisions of, the NERC Rules of Procedure, the NERC Compliance Monitoring and Enforcement Program, this Agreement, compliance and enforcement program procedures and guidance that NERC may from time to time develop and the ERO Regulations. NERC shall promptly forward such report to the Commission, as required by the ERO Regulations, or as the Commission shall from time to time direct. NERC and [REGIONAL ENTITY] shall cooperate in filing such periodic summary reports and analyses as the Commission shall from time to time direct.

(d) All dispositions by [REGIONAL ENTITY] of noncompliance with Reliability Standards shall be reported to NERC for review. NERC shall develop and implement policies and procedures for the review and, where appropriate, approval of dispositions of

noncompliance.

(e) As part of its compliance monitoring and enforcement program, [REGIONAL ENTITY] shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

(f) [For Regional Entities with such agreements: [REGIONAL ENTITY] may also perform compliance monitoring and enforcement activities outside of the boundaries shown in **Exhibit A**, on behalf of a Regional Entity that is unable to perform such activities with respect to one or more registered entities within its footprint due to a conflict of interest. Such activities shall be performed pursuant to a contract between [REGIONAL ENTITY] and other such Regional Entity that is approved by both NERC and the Commission.]

7. Delegation-Related Activities.

NERC will engage [REGIONAL ENTITY] on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed in **Exhibit E**. NERC may from time to time develop policies or procedures, which shall be used by [REGIONAL ENTITY] in the performance of the delegation-related activities. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (g), each of which shall be considered a statutory activity:

(a) **Certification of Bulk-Power System Entities.** The NERC Board of Trustees shall set criteria for certification in accordance with the NERC Rules of Procedure. Certifications shall be issued in accordance with the NERC Rules of Procedure.

(b) **Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.**

(i) The NERC Board of Trustees shall develop criteria for registration of

owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by [REGIONAL ENTITY] and other Regional Entities. [REGIONAL ENTITY] shall provide timely and accurate information relating to registrations to NERC, as needed, to enable NERC to maintain a registration database that is accurate and up-to-date and to enable NERC to satisfy its monthly reporting obligation.

(iii) The NERC Board of Trustees Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board of Trustees Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) **Reliability Assessment and Performance Analysis.** [REGIONAL ENTITY] shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. [REGIONAL ENTITY] shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives, and policies and procedures related to data-gathering, quality control, forms, and reporting mechanisms that NERC may from time to time develop.

(d) **Event Analysis and Reliability Improvement.** [REGIONAL ENTITY] shall conduct event analysis pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop. NERC and [REGIONAL ENTITY] shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, [REGIONAL ENTITY] shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) **Training and Education.** [REGIONAL ENTITY] may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) **Situation Awareness.** [REGIONAL ENTITY] shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System.

(g) **Critical Infrastructure Security.** [REGIONAL ENTITY] shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of [REGIONAL ENTITY]'s performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and [REGIONAL ENTITY] that matters relating to NERC's oversight of [REGIONAL ENTITY]'s performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and [REGIONAL ENTITY] and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with [REGIONAL ENTITY] and other Regional Entities, performance goals, performance reports, measures and other parameters (including, without limiting the scope of such goals, financial performance goals), which shall be used to measure NERC's and [REGIONAL ENTITY]'s performance of their respective functions and related activities. The performance goals, measures and parameters and the form

of performance reports shall be approved by the NERC President and shall be made public. [REGIONAL ENTITY] shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate [REGIONAL ENTITY]'s performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters, and performance reports to evaluate [REGIONAL ENTITY]'s performance of its delegated functions and related activities and to provide advice and direction to [REGIONAL ENTITY] on performance improvements. The performance goals, measures and other parameters, and the values of such goals, measures and parameters, shall be reviewed by NERC, [REGIONAL ENTITY] and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, [REGIONAL ENTITY] shall be required to develop, submit for NERC approval, and implement action plans to address, areas of its performance that are reasonably determined by NERC, based on analysis of [REGIONAL ENTITY]'s performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring [REGIONAL ENTITY] to adopt and implement an action plan or other remedial action, NERC shall issue a notice to [REGIONAL ENTITY] of the need and basis for an action plan or other remedial action and provide an opportunity for [REGIONAL ENTITY] to submit a written response contesting NERC's evaluation of [REGIONAL ENTITY]'s performance and the need for an action plan. [REGIONAL ENTITY] may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board of Trustees review and reconsider the request. NERC and [REGIONAL ENTITY] shall work collaboratively as needed in the development and implementation of [REGIONAL ENTITY]'s action plan. A final action plan submitted by [REGIONAL ENTITY] to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to [REGIONAL ENTITY] standardized training and education programs, which shall be designed taking into account input from [REGIONAL

ENTITY] and other Regional Entities, for [REGIONAL ENTITY] personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to [REGIONAL ENTITY] concerning the manner in which [REGIONAL ENTITY] shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered “directives.” NERC shall initiate the development of a directive through a collaborative process with [REGIONAL ENTITY] and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and [REGIONAL ENTITY] and, if applicable, other Regional Entities, are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, [REGIONAL ENTITY], subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by [REGIONAL ENTITY], the NERC Board of Trustees (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without [REGIONAL ENTITY]’s agreement, *provided*, that [REGIONAL ENTITY] shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and [REGIONAL ENTITY] and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that it is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular

directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board of Trustees (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which [REGIONAL ENTITY], and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The NERC Board of Trustees or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the NERC Board of Trustees or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. [REGIONAL ENTITY], either individually or in conjunction with other Regional Entities, may request that the NERC Board of Trustees or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with [REGIONAL ENTITY], either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) NERC may perform reviews of [REGIONAL ENTITY] on a reasonable periodicity to determine [REGIONAL ENTITY]'s compliance with this Agreement, any policies or procedures established by NERC, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c) and to monitor the implementation of guidance and directions issued by the NERC Board of Trustees pursuant to Section 8(d). All such periodic reviews shall comply with the NERC Rules of Procedure and Commission directives.

(g) The Commission and the Commission staff shall have full access to action plans and remedial actions, directives, and directions and guidance issued pursuant to subsections (a)(iii), (c)(iv) and (d), respectively, that are maintained as non-public.

9. Funding. [REGIONAL ENTITY] and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related

activities described in Sections 5, 6 and 7 and listed in **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) [REGIONAL ENTITY] shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. [REGIONAL ENTITY]'s proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, [REGIONAL ENTITY] to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E**. [REGIONAL ENTITY]'s business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) [REGIONAL ENTITY] and NERC agree that the portion of [REGIONAL ENTITY]'s approved budget for the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by [REGIONAL ENTITY] and approved by NERC and the Commission. If [REGIONAL ENTITY] proposes to use a formula other than Net Energy for Load beginning in the following year, [REGIONAL ENTITY] shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and [REGIONAL ENTITY] to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide [REGIONAL ENTITY] with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) [REGIONAL ENTITY] shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E**, as well as for all other activities of [REGIONAL ENTITY], to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund [REGIONAL ENTITY]'s performance of its Delegated Authority and related activities in accordance with [REGIONAL ENTITY]'s Commission-approved business plan and budget, in the amount of [REGIONAL ENTITY]'s assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting [REGIONAL ENTITY]'s approved assessments from end users and other entities and payment of the approved assessment amount to [REGIONAL ENTITY], unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon [REGIONAL ENTITY] that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without [REGIONAL ENTITY]'s consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and [REGIONAL ENTITY] fiscal year budget with the actual results at the NERC and Regional Entity levels. [REGIONAL ENTITY] shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) [REGIONAL ENTITY] shall submit unaudited quarterly interim financial

statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) [REGIONAL ENTITY] shall submit audited financial statements annually, including supporting materials, in a form provided by NERC, by no later than the date reasonably required and designated in writing by NERC to enable NERC to assemble and file the required annual budget to actual true up filing with the Commission.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which [REGIONAL ENTITY] shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of [REGIONAL ENTITY]) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which [REGIONAL ENTITY] shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of [REGIONAL ENTITY]. *Provided*, that, subject to approval by NERC and the Commission, [REGIONAL ENTITY] may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. [REGIONAL ENTITY] may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit [REGIONAL ENTITY] from contracting with other entities to assist it in carrying out its Delegated Authority, provided [REGIONAL ENTITY] retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and

diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on [January 1, 2016] (the “Effective Date”).

(b) The term of this Agreement shall commence on the Effective Date, and shall have an initial term of five years (the “Term”), ending on December 31, 2020. Thereafter, the Term shall automatically extend for one additional five-year term unless either Party shall provide written notice of termination of this Agreement to the other no later than one year prior to the then effective expiration of the Term. In such event, this Agreement shall terminate upon the expiration of then effective Term, unless otherwise mutually agreed to by the Parties.

(c) In the event of the termination of this Agreement, the Parties shall work to provide for a transition of [REGIONAL ENTITY]’s Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement.

(d) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the

relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by [REGIONAL ENTITY] and NERC.

(e) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. [REGIONAL ENTITY] and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and [REGIONAL ENTITY] shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of [REGIONAL ENTITY]'s or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that [REGIONAL ENTITY] or NERC is found liable for gross negligence or intentional misconduct, in which case [REGIONAL ENTITY] or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party, except as otherwise specifically provided herein and in Section 15(c).

15. Confidentiality.

(a) During the course of the Parties' performance under this Agreement, a Party may receive proprietary, business sensitive, or critical infrastructure information ("Confidential Information") necessary to fulfill its respective obligations in connection with this Agreement. The Parties agree that their mutual objective under this provision is to provide appropriate protection for Confidential Information, while maintaining the ability to conduct their respective business activities.

(b) No obligation of confidentiality shall apply to any information that the recipient: (i) already possesses without obligation of confidentiality; (ii) develops independently; or (iii) rightfully receives without any obligation of confidentiality from a third party.

(c) The Parties may transfer or exchange such Confidential Information with and between the other Regional Entities as third-party beneficiaries of the terms of this Agreement, provided the Parties and the other Regional Entities as third-party beneficiaries continue to maintain the confidentiality of such information.

(d) Except as set forth herein and within the NERC Rules of Procedure, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party or specified third-party beneficiary of this Agreement, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party or specified third-party beneficiary of this Agreement that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party or specified third-party beneficiary of this Agreement to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party or specified third-party beneficiary of this Agreement waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information.

(e) Each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein.

(f) This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement, nor does it prohibit permitted disclosures as set forth in the NERC Rules of Procedure.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of [REGIONAL ENTITY] under this Agreement without first obtaining the consent of [REGIONAL ENTITY], which consent shall not be unreasonably withheld or delayed. To the extent [REGIONAL ENTITY] does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of [REGIONAL ENTITY] under this Agreement, [REGIONAL ENTITY] shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by [REGIONAL ENTITY] to NERC and the Commission, or at such other time as may be mutually agreed by [REGIONAL ENTITY] and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and [REGIONAL ENTITY] (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to [REGIONAL ENTITY]'s performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute.

[REGIONAL ENTITY] shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, provided, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), provided, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period

may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. Provided, however, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. All notices, demands, requests, and other communications required, permitted by, or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand, email or overnight courier:

If to NERC:

If to [REGIONAL ENTITY]:

North American Electric Reliability
Corporation
1325 G Street NW, Suite 600
Washington, DC 20005
Attn: General Counsel
Email: legal@nerc.net

Attn:
Email:

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of Georgia without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in Georgia. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in Georgia for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. Savings Clause. Nothing in this Agreement shall be construed to preempt or limit any authority that [REGIONAL ENTITY] may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. Entire Agreement. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. Execution of Counterparts. This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

[REGIONAL ENTITY]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A — Regional Boundaries

Exhibit A to the delegation agreement for each Regional Entity receiving Delegated Authority shall describe the geographic or electrical boundaries covered by the proposed delegation of authority. **Exhibit A** for each Regional Entity shall reflect coordination with neighboring Regional Entities, as appropriate, to ensure that all relevant areas are either included within the geographic boundaries of a Regional Entity or specifically identified as not being within the geographic boundaries of any Regional Entity. Any exclusions of geographic or electrical areas or of Registered Entities from the scope of the Regional Entity's Delegated Authority within the geographic or electrical boundaries shown in **Exhibit A**, and any additions of geographic or electrical areas or of Registered Entities located outside the boundaries shown in **Exhibit A** to the scope of the Regional Entity's Delegated Authority, shall be specifically stated or described in **Exhibit A**.

Exhibit B — Governance

The Regional Entity bylaws shall meet the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence from the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

Exhibit C [Intentionally left blank]

Exhibit D — Compliance Monitoring and Enforcement Program

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

[REGIONAL ENTITY] will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within [REGIONAL ENTITY]'s geographic or electrical boundaries, and such other scope, set forth in **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

[REGIONAL ENTITY], to the extent required in the Rules of Procedure, shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be either [REGIONAL ENTITY]'s board, a committee of the board, a balanced compliance panel reporting directly to [REGIONAL ENTITY]'s board or an independent hearing panel. [REGIONAL ENTITY]'s hearing body is [its board] [if not the board, insert the name of the committee or group serving as the hearing body].

[If the hearing body is a compliance panel other than the board, provide here a description of how the members of the compliance panel are selected and the qualifications to be selected for the compliance panel.]

To the extent required in the Rules of Procedure, [REGIONAL ENTITY] shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: [Describe any deviations, or state "None." If there are deviations from the NERC pro forma Hearing Procedures, [REGIONAL ENTITY]'s Hearing Procedures shall be included as a separate attachment to this **Exhibit D**.]

3.0 OTHER DECISION-MAKING BODIES

If [REGIONAL ENTITY] uses other decision-making bodies within its compliance program, provide here a description of the function of that body to the extent not described elsewhere in the Agreement or exhibits, how the members of that body are selected, and the qualifications to be selected for that body.]

Exhibit E — Funding

1. Scope of Activities Funded through the ERO Funding Mechanism

[Regional Entity] shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and [Regional Entity], in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of [Regional Entity's] business plan and budget. The annual schedule for the preparation of business plans and budgets shall require [Regional Entity] (i) to submit to NERC draft(s) of [Regional Entity]'s proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by [Regional Entity] Board of Trustees to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of [Regional Entity]'s business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The [Regional Entity] business plan and budget submission shall include supporting materials, including [Regional Entity]'s complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. [Regional Entity]'s business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve [Regional Entity]'s proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of

this **Exhibit E**, or shall direct [Regional Entity] to make such revisions as NERC deems appropriate prior to approval. NERC shall submit [Regional Entity]'s approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of [REGIONAL ENTITY]'s delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. [Regional Entity] shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying [Regional Entity's] assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of [Regional Entity's] assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

[IF NERC WILL BILL AND COLLECT ASSESSMENTS DIRECTLY FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):]

(a) NERC shall submit invoices to the load-serving entities or designees identified by [Regional Entity] covering the NERC and [Regional Entity] assessments approved for collection.

[IF THE REGIONAL ENTITY WILL ACT AS THE BILLING AND COLLECTION AGENT ON BEHALF OF NERC TO BILL AND COLLECT ASSESSMENTS FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):]

(a) NERC and [Regional Entity] agree that [Regional Entity] shall act as the billing and collection agent on behalf of NERC to bill and collect [Regional Entity]'s assessments from load-serving entities and designees (or such other entities as agreed by NERC and [Regional Entity]). [Regional Entity] agrees that it shall (i) issue all invoices to load-serving entities and other entities in a prompt and timely manner after receipt from NERC of the information needed to issue the invoices; (ii) exercise commercially reasonable efforts to collect invoices that are not paid as of the due date(s); and (iii) transfer all funds collected to NERC in a timely manner, as follows: Prior to the start of each calendar quarter, and once per week thereafter until all billings for the quarter are collected, [Regional Entity] will electronically transfer to NERC, in immediately available funds, all payments received by [Regional Entity] from load-serving entities or other entities for payment of invoices.

On the same day that [Regional Entity] makes each electronic transfer of funds to NERC, [Regional Entity] shall send an email to the Chief Financial Officer or Controller of NERC detailing the collections being transmitted, including a listing of the load-serving entities or other entities from which payments were collected and the amount collected from each entity. [Note: If NERC and Regional Entity have a different collection and payment arrangement, the preceding two sentences will be modified accordingly to describe it.]

[Regional Entity] agrees that it shall not in any way use its position as billing and collection agent for NERC to attempt to influence NERC's policies or decisions on matters relating to adoption of Reliability Standards (including Regional Reliability Standards and Regional Variances), administration of the compliance monitoring and enforcement program and other compliance and enforcement matters, determination and imposition of penalties and sanctions, budgeting matters including review and approval of [Regional Entity's] budgets and business plans, or any other NERC decisions, including by issuing invoices, engaging in collection activities or transferring funds collected to NERC in an untimely manner or other than in accordance with this Agreement.

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from Applicable Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, [Regional Entity] shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, [Regional Entity] is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within [REGIONAL ENTITY]'s region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within [Regional Entity]'s region.

(c) Upon approval by Applicable Governmental Authorities of [Regional Entity]'s annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay [Regional Entity's] annual assessment to Regional Entity in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by [Regional Entity], other than penalty monies received from an operational function or division or affiliated entity of [Regional Entity], shall be applied as a general offset to [Regional Entity]'s budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of [Regional Entity] shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for [Regional Entity's] Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), [Regional Entity] performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"): [List and describe all non-statutory activities performed by Regional Entity, or state "None."]

[Regional Entity] shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions: [List and describe the methods and procedures Regional Entity employs to keep costs and funding of statutory activities separate from costs and funding of non-statutory activities, including at a minimum a description of how Regional Entity's bank accounts and receivables/payables procedures are set up for both statutory and non-statutory functions, a description of how Regional Entity ensures each employee involved in both statutory and non-statutory functions keeps accurate time records reflecting his/her activities, and a description of how Regional Entity's general and administrative costs are allocated between statutory activities and non-statutory activities. If the necessary descriptions are lengthy they may be provided in a separate attachment labeled "Attachment E-1", and state here "See Attachment E-1." If Regional Entity has listed no non-statutory functions in the preceding paragraph, state here "Not applicable."]

[Regional Entity] shall provide its budget for such non-statutory activities to NERC at the same time that [Regional Entity] submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. [Regional Entity's] budget for non-statutory activities that is provided to NERC shall contain a detailed list of [Regional Entity's] non-statutory activities and a description of the funding sources for the non-statutory activities. [Regional Entity] agrees that no costs (which shall include a reasonable allocation of [Regional Entity]'s general and administrative costs) of non-statutory activities are to be included in the calculation of [Regional Entity's] assessments, dues, fees, and other charges for its statutory activities.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if [Regional Entity] determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, [Regional Entity] shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in [Regional Entity]'s approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct [Regional Entity] to make such revisions as NERC deems appropriate prior to approval. NERC shall submit [Regional Entity]'s approved amended or supplemental

business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Records

Upon a request made to [Regional Entity] with reasonable notice, NERC shall have access to and may review all financial records of [Regional Entity], including records used to prepare [Regional Entity's] financial statements. NERC shall conduct reviews of the quarterly and annual financial statements submitted by [Regional Entity] pursuant to Section 9(h) and (i) of the Agreement. [Regional Entity] shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC.

Attachment 2: REDLINE – Revised *Pro Forma* Regional Delegation Agreement

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
AND [REGIONAL ENTITY]**

**AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”)
made**

Effective as of January 1, ~~2014~~2016, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and [REGIONAL ENTITY], an organization established to develop and enforce Reliability Standards within the geographic boundaries identified ~~on~~ in **Exhibit A** to this Agreement, and for other purposes. NERC and [REGIONAL ENTITY] may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § ~~824a~~824o) (hereafter “the Act”), which, among other things, provides for the establishment of an ~~electric reliability organization~~Electric Reliability Organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as [REGIONAL ENTITY], provided that:

- (A) The Regional Entity is governed by —
 - (i) an independent board;
 - (ii) a balanced stakeholder board; or
 - (iii) a combination independent and balanced stakeholder board.
- (B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and
- (C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, [REGIONAL ENTITY] [is/is not] organized on an Interconnection-wide basis and therefore [is/is not] entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through [REGIONAL ENTITY] to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that [REGIONAL ENTITY] meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and [REGIONAL ENTITY], having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of

their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and [REGIONAL ENTITY] agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to [REGIONAL ENTITY] to propose and enforce Reliability Standards, consistent with Section 4(d) and the boundaries identified in Exhibit A pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. Representations.

(a) For purposes of its Delegated Authority, [REGIONAL ENTITY] hereby represents and warrants to NERC that:

(i) [REGIONAL ENTITY] is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. [REGIONAL ENTITY] is governed in accordance with its bylaws by [select appropriate: an independent board/a balanced stakeholder board/ a combination independent and balanced stakeholder board]. Pursuant to these bylaws, no two industry sectors can control any [REGIONAL ENTITY] decision and no single industry sector can veto any [REGIONAL ENTITY] decision. The relevant portions of

The relevant criteria for the establishment of such bylaws are attached hereto in **Exhibit B**. No other [REGIONAL ENTITY] corporate governance documents shall be inconsistent with the criteria in **Exhibit B**.

~~such bylaws are attached hereto in **Exhibit B**⁴, and as so attached are in full force and effect. No other such corporate governance documents are binding upon [REGIONAL ENTITY].~~

(ii) ~~As set forth in **Exhibit C** hereto²,~~ [REGIONAL ENTITY] has developed a standards development procedure, which provides the process that [REGIONAL ENTITY] may use to develop Regional Reliability Standards [and Regional Variances, if the regional entity is organized on an Interconnection-wide basis] that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, [REGIONAL ENTITY] has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within [REGIONAL ENTITY]'s geographic boundaries as shown ~~on~~ **Exhibit A**.

(b) NERC hereby represents and warrants to [REGIONAL ENTITY] that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

(iii) NERC shall comply with its Certificate of Incorporation, Bylaws and Rules of Procedure, as from time to time adopted, approved or amended.

3. General Covenants.

(a) During the term of this Agreement, [REGIONAL ENTITY] shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without ~~NERC's~~ NERC approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) [REGIONAL ENTITY] shall provide NERC with a copy of its Regional Entity Rules upon request by NERC.

~~(b)(c)~~ During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of [REGIONAL ENTITY] under this Agreement without first obtaining the consent of [REGIONAL ENTITY], which consent shall not be unreasonably withheld or delayed.

~~(e)(d)~~ During the term of this Agreement, NERC and [REGIONAL ENTITY] shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

(e) For purposes of this Agreement, NERC shall collaborate with the Regional Entities in the development of guidance, policies and procedures, and oversight parameters as contemplated by this Agreement. In the event that collaboration is not successful on any such matter, the NERC President may issue a directive with respect to such matter pursuant to Section 8 herein, and such directive shall be binding upon [REGIONAL ENTITY].

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of [REGIONAL ENTITY] in ~~Sections 2 and 3 above, the~~ this Agreement, [REGIONAL ENTITY's] corporate governance documents ~~set forth in Exhibit B,~~ the [REGIONAL ENTITY's] standards development process ~~set forth in Exhibit C,~~ and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to [REGIONAL ENTITY] for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth ~~on~~ in **Exhibit A**, provided, that [REGIONAL ENTITY] shall not monitor and enforce compliance with Reliability Standards for [REGIONAL ENTITY] or an affiliated entity with respect to reliability functions for which [REGIONAL ENTITY] or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to [REGIONAL ENTITY] within, or additions to this delegation of authority to [REGIONAL ENTITY] beyond, the geographic

boundaries set forth ~~en~~in **Exhibit A** are stated ~~en~~in **Exhibit A**.

(b) In circumstances where [REGIONAL ENTITY] or an affiliated entity is a Registered Entity, [REGIONAL ENTITY] shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce [REGIONAL ENTITY]'s or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit [REGIONAL ENTITY] from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified ~~en~~in **Exhibit A** that is within the United States. Any delegation of authority by ~~ERO~~Applicable Governmental Authorities in Canada or Mexico shall be governed by the law of such authority or a separate agreement and is outside the scope of this Agreement; provided, however, that both [REGIONAL ENTITY] and NERC shall endeavor to ensure that this Agreement and any such separate ~~agreements~~agreement are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, [REGIONAL ENTITY] shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, [REGIONAL ENTITY] shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords [REGIONAL ENTITY] reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards [and Regional Variances, if

Regional Entity is organized on an Interconnection-wide basis] through [REGIONAL ENTITY]'s process ~~as set forth in Exhibit C.~~ [REGIONAL ENTITY]'s process shall be consistent with the NERC Rules of Procedure and Commission directives. Any changes to [REGIONAL ENTITY]'s process shall be submitted to the NERC Board of Trustees for approval and upon approval, be submitted to the Commission for approval. Proposals approved through [REGIONAL ENTITY]'s process shall be reviewed by the NERC Board of Trustees after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board of Trustees shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. [REGIONAL ENTITY] may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, [REGIONAL ENTITY] shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the ~~geographic~~ boundaries set forth, ~~or as otherwise specified,~~ in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D.**

NERC and [REGIONAL ENTITY] agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, inter alia, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. [REGIONAL ENTITY] may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, [REGIONAL ENTITY] agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board of Trustees or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

~~(b) — [REGIONAL ENTITY] shall report promptly to NERC any Possible Violation, Alleged Violation, or Confirmed Violation of a Reliability Standard, and its eventual disposition by [REGIONAL ENTITY]. Such report shall include the owner's, operator's, or user's name, which Reliability Standard or Reliability Standards were the subject of the Possible Violation, Alleged Violation, or Confirmed Violation, when the Possible Violation, Alleged Violation, or Confirmed Violation occurred, other pertinent facts including circumstances surrounding the Possible Violation, Alleged Violation, or Confirmed Violation with any known risk to the Bulk Power System, when the Possible Violation, Alleged Violation, or Confirmed Violation was or will be mitigated, the name of a person knowledgeable about the Possible Violation, Alleged Violation, or Confirmed Violation to serve as a point of contact with the Commission, and any other information required by NERC compliance program procedures. NERC shall promptly forward such report to the Commission. NERC and [REGIONAL ENTITY] shall cooperate in filing such periodic summary reports as the Commission shall from time to time direct on Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards and summary analyses of such Possible Violations, Alleged Violations, and Confirmed Violations.~~

~~(c) — Each Possible Violation, Alleged Violation, or Confirmed Violation shall be treated as nonpublic unless the matter is filed with the Commission as a Notice of Penalty, or, if disclosure is required, dismissed. The disposition of each Possible Violation, Alleged Violation, or Confirmed Violation that relates to a Cybersecurity Incident or that would jeopardize the security of the Bulk Power System if publicly disclosed shall remain nonpublic unless the~~

~~Commission directs otherwise.~~

~~(d) — All dispositions by [REGIONAL ENTITY] of Possible Violations, Alleged Violations, and Confirmed Violations of Reliability Standards shall be reported to NERC for review and, in the case of Confirmed Violations, penalties or sanctions, and settlements, for approval. Following approval of a disposition by NERC, NERC shall file the disposition with the Commission, if required by, and in accordance with, Section 215(e) of the Act and Section 39.7 of the ERO Regulations. NERC shall review [REGIONAL ENTITY]'s dispositions based on the following criteria:~~

~~(i) whether the disposition is supported by a sufficient record compiled by [REGIONAL ENTITY] in accordance with the NERC Rules of Procedure, NERC directives and Commission requirements, taking into account the nature of the Possible Violation, Alleged Violation, or Confirmed Violation,~~

~~(ii) whether the disposition is consistent with any applicable directives issued pursuant to Section 8(c) of this Agreement, any applicable directions or guidance issued by the NERC Board or a Board committee pursuant to Section 8(d) of this Agreement, or other applicable NERC guidance, concerning the Reliability Standards to which the Possible Violation, Alleged Violation, or Confirmed Violation relates,~~

~~(iii) if the disposition is a Confirmed Violation or settlement, whether it provides for a penalty or sanction, or a determination of no penalty or sanction, determined in accordance with the NERC Sanction Guidelines, Appendix 4B to the NERC Rules of Procedure, and~~

~~(iv) whether the disposition is reasonably consistent with other dispositions by [REGIONAL ENTITY] and by other Regional Entities of Possible Violations, Alleged Violations, and Confirmed Violations involving the same or similar facts and circumstances.~~

~~NERC may reject any disposition, with an explanation of why NERC believes the disposition does not meet the above criteria. [REGIONAL ENTITY] may submit a disposition requiring NERC approval that has been rejected by NERC, or a revised disposition following a rejection, directly to the NERC Board Compliance Committee for approval without revising the disposition to address all the grounds on which NERC originally rejected the disposition. The final approval of [REGIONAL ENTITY]'s disposition of a Possible Violation, Alleged Violation, or Confirmed Violation shall be made by the NERC Board Compliance Committee,~~

~~provided, that the NERC Board or NERC Board Compliance Committee may, by appropriate resolution, delegate authority for final approval of dispositions of specified categories of Possible Violations, Alleged Violations, or Confirmed Violations to the NERC President.~~

~~(e) All appeals of penalties imposed by [REGIONAL ENTITY] as a result of a decision by [REGIONAL ENTITY]'s Hearing Body shall be filed with, heard by and disposed of by, NERC in accordance with the NERC Rules of Procedure.~~

~~(f) [REGIONAL ENTITY] shall maintain the capability to conduct investigations of Possible Violations and Alleged Violations of Reliability Standards and to conduct such investigations in a confidential manner.~~

~~(g)~~(b) [REGIONAL ENTITY] shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual ~~NERC~~ERO Compliance Monitoring and Enforcement Program Implementation Plan.

(c) [REGIONAL ENTITY] shall report promptly to NERC information regarding noncompliance with a Reliability Standard, and its eventual disposition by [REGIONAL ENTITY], as set forth in, and subject to the confidentiality and disclosure provisions of, the NERC Rules of Procedure, the NERC Compliance Monitoring and Enforcement Program, this Agreement, compliance and enforcement program procedures and guidance that NERC may from time to time develop and the ERO Regulations. NERC shall promptly forward such report to the Commission, as required by the ERO Regulations, or as the Commission shall from time to time direct. NERC and [REGIONAL ENTITY] shall cooperate in filing such periodic summary reports and analyses as the Commission shall from time to time direct.

(d) All dispositions by [REGIONAL ENTITY] of noncompliance with Reliability Standards shall be reported to NERC for review. NERC shall develop and implement policies and procedures for the review and, where appropriate, approval of dispositions of noncompliance.

~~(h)~~(e) As part of its compliance monitoring and enforcement program, [REGIONAL ENTITY] shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are Amended and Restated Pro Forma Regional Delegation Agreement

assured through reasonable and appropriate recusal procedures.

~~(i) As often as NERC deems necessary, but no less than every five years, NERC shall review [REGIONAL ENTITY]'s compliance monitoring and enforcement program to determine that: (i) the program meets all applicable legal requirements; (ii) actual practices reflect the requirements; and (iii) the program administered pursuant to the Delegated Authority promotes consistent interpretations across North America of Reliability Standards and comparable levels of sanctions and penalties for violations of Reliability Standards constituting comparable levels of threat to reliability of the Bulk Power System.~~

(f) [For Regional Entities with such agreements: [REGIONAL ENTITY] may also perform compliance monitoring and enforcement activities outside of the boundaries shown in **Exhibit A**, on behalf of a Regional Entity that is unable to perform such activities with respect to one or more registered entities within its footprint due to a conflict of interest. Such activities shall be performed pursuant to a contract between [REGIONAL ENTITY] and other such Regional Entity that is approved by both NERC and the Commission.]

7. Delegation-Related Activities.

NERC will engage [REGIONAL ENTITY] on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed ~~on~~in **Exhibit E**. NERC may from time to time develop policies or procedures, which shall be used by [REGIONAL ENTITY] in the performance of the delegation-related activities. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through ~~(fg)~~, each of which shall be considered a statutory activity:

(a) **Certification of Bulk-Power System Entities.** The NERC Board of Trustees shall set criteria for certification in accordance with the NERC Rules of Procedure. ~~[REGIONAL ENTITY] Certifications~~ shall ~~issue certifications~~be issued in accordance with the NERC Rules of Procedure.

(b) **Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.**

(i) The NERC Board of Trustees shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the

registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by [REGIONAL ENTITY] and other Regional Entities. [REGIONAL ENTITY] shall provide timely and accurate information relating to registrations to NERC, ~~on at least a monthly basis as needed~~, to enable NERC to maintain a registration database that is accurate and up-to-date and to enable NERC to satisfy its monthly reporting obligation.

(iii) The NERC Board of Trustees Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board of Trustees Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) **Reliability Assessment and Performance Analysis.** [REGIONAL ENTITY] shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. [REGIONAL ENTITY] shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives. ~~NERC shall develop, and policies and procedures related to~~ data-gathering, quality control ~~procedures~~, forms, and reporting mechanisms, ~~which shall be used by [REGIONAL ENTITY] and other Regional Entities in carrying out their responsibilities under this subsection (c).~~ that NERC may from time to time develop.

(d) **Event Analysis and Reliability Improvement.** [REGIONAL ENTITY] shall conduct event analysis pursuant to the NERC Rules of Procedure ~~and~~, applicable governmental regulations, and policies and procedures that NERC may from time to time develop. NERC and [REGIONAL ENTITY] shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, [REGIONAL ENTITY] shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) **Training and Education.** [REGIONAL ENTITY] may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) **Situation Awareness** ~~and Infrastructure Security.~~
(g) [REGIONAL ENTITY] shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure ~~and~~ applicable governmental regulations, and policies and procedures that NERC may from time to time develop, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System.

(g) Critical Infrastructure Security. [REGIONAL ENTITY] shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of [REGIONAL ENTITY]'s performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and [REGIONAL ENTITY] that matters relating to NERC's oversight of [REGIONAL ENTITY]'s performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and [REGIONAL ENTITY] and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with [REGIONAL ENTITY] and other Regional Entities, performance goals, performance reports, measures and other parameters (including, without limiting the scope of such goals, ~~measures and parameters~~, financial performance goals, ~~measures and parameters~~), and performance reports, which shall be used to measure NERC's and [REGIONAL ENTITY]'s performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance

reports shall be approved by the NERC President and shall be made public. [REGIONAL ENTITY] shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate [REGIONAL ENTITY]'s performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters, and performance reports to evaluate [REGIONAL ENTITY]'s performance of its delegated functions and related activities and to provide advice and direction to [REGIONAL ENTITY] on performance improvements. The performance goals, measures and other parameters, and the values of such goals, measures and parameters, shall be reviewed by NERC, [REGIONAL ENTITY] and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, [REGIONAL ENTITY] shall be required to develop, submit for NERC approval, and implement action plans to address areas of its performance that are reasonably determined by NERC, based on analysis of [REGIONAL ENTITY]'s performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring [REGIONAL ENTITY] to adopt and implement an action plan or other remedial action, NERC shall issue a notice to [REGIONAL ENTITY] of the need and basis for an action plan or other remedial action and provide an opportunity for [REGIONAL ENTITY] to submit a written response contesting NERC's evaluation of [REGIONAL ENTITY]'s performance and the need for an action plan. [REGIONAL ENTITY] may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board of Trustees review and reconsider the request. NERC and [REGIONAL ENTITY] shall work collaboratively as needed in the development and implementation of [REGIONAL ENTITY]'s action plan. A final action plan submitted by [REGIONAL ENTITY] to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to [REGIONAL ENTITY] standardized training and education programs, which shall be designed taking into account input from [REGIONAL ENTITY] and other Regional Entities, for [REGIONAL ENTITY] personnel on topics relating to

the delegated functions and related activities.

(c) (i) ___NERC may issue directives to [REGIONAL ENTITY] concerning the manner in which [REGIONAL ENTITY] shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered “directives.” NERC shall initiate the development of a directive through a collaborative process with [REGIONAL ENTITY] and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and [REGIONAL ENTITY] and, if applicable, other Regional Entities, are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President; ~~provided, that before the NERC President issues a directive pursuant to this paragraph (ii), [REGIONAL ENTITY] and, if applicable, other Regional Entities, shall be given a reasonable opportunity to present their positions on, and a suggested alternative version or versions of, the proposed directive to the NERC President.~~

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, [REGIONAL ENTITY], subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by [REGIONAL ENTITY], the NERC Board of Trustees (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without [REGIONAL ENTITY]’s agreement, *provided*, that [REGIONAL ENTITY] shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and [REGIONAL ENTITY] and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that it is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President

Amended and Restated Pro Forma Regional Delegation Agreement Page 15 of 256

makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board of Trustees (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which [REGIONAL ENTITY], and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The NERC Board of Trustees or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the NERC Board of Trustees or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. [REGIONAL ENTITY], either individually or in conjunction with other Regional Entities, may request that the NERC Board of Trustees or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with [REGIONAL ENTITY], either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) ~~Any audits NERC may perform reviews~~ of [REGIONAL ENTITY] ~~performed by NERC shall be limited on a reasonable periodicity to an examination of determine~~ [REGIONAL ENTITY]'s compliance with this Agreement, any policies or procedures established by NERC, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c)- and to monitor the implementation of guidance and directions issued by the NERC Board of Trustees pursuant to Section 8(d). All such periodic reviews shall comply with the NERC Rules of Procedure and Commission directives.

(g) The Commission and the Commission staff shall have full access to action plans and remedial actions, directives, and directions and guidance issued pursuant to subsections (a)(iii), (c)(iv) and (d), respectively, that are maintained as non-public.

9. Funding. [REGIONAL ENTITY] and NERC shall ensure, subject to Commission

approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed ~~on~~ **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) [REGIONAL ENTITY] shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. [REGIONAL ENTITY]'s proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, [REGIONAL ENTITY] to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed ~~on~~ **Exhibit E**. [REGIONAL ENTITY]'s business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) [REGIONAL ENTITY] and NERC agree that the portion of [REGIONAL ENTITY]'s approved budget for the functions and activities described in Sections 5, 6 and 7 and listed ~~on~~ **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by [REGIONAL ENTITY] and approved by NERC and the Commission. If [REGIONAL ENTITY] proposes to use a formula other than Net Energy for Load beginning in the following year, [REGIONAL ENTITY] shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and [REGIONAL ENTITY] to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide [REGIONAL ENTITY] with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) [REGIONAL ENTITY] shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed ~~on~~ **in Exhibit E**, as well as for all other activities of [REGIONAL ENTITY], to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund [REGIONAL ENTITY]'s performance of its Delegated Authority and related activities in accordance with [REGIONAL ENTITY]'s Commission--approved business plan and budget, in the amount of [REGIONAL ENTITY]'s assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting [REGIONAL ENTITY]'s approved assessments from end users and other entities and payment of the approved assessment amount to [REGIONAL ENTITY], unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon [REGIONAL ENTITY] that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without [REGIONAL ENTITY]'s consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and [REGIONAL ENTITY] fiscal year budget with the actual results at the NERC and Regional Entity levels. [REGIONAL ENTITY] shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) [REGIONAL ENTITY] shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) [REGIONAL ENTITY] shall submit audited financial statements annually, including supporting materials, in a form provided by NERC ~~no later than May 1 of the following year,~~ by no later than the date reasonably required and designated in writing by NERC to enable NERC to assemble and file the required annual budget to actual true up filing with the Commission.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which [REGIONAL ENTITY] shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of [REGIONAL ENTITY]) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which [REGIONAL ENTITY] shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of [REGIONAL ENTITY]. *Provided*, that, subject to approval by NERC and the Commission, [REGIONAL ENTITY] may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. [REGIONAL ENTITY] may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit [REGIONAL ENTITY] from contracting with other entities to assist it in carrying out its Delegated Authority, provided [REGIONAL ENTITY] retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section

11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. **Term and Termination.**

(a) This Agreement shall become effective on [January 1, ~~2014~~2016] (the “Effective Date”).

(b) The term of ~~the~~this Agreement shall ~~be five (5) years from~~commence on the Effective Date, ~~prior to which time NERC shall conduct an audit pursuant to subsection 6(i) to ensure that [REGIONAL ENTITY] continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility and shall have initial term of five years (the “Term”), ending on December 31, 2020. Thereafter, the Term shall automatically extend for delegation. If [REGIONAL ENTITY] meets such requirements, this Agreement may be renewed for another five (5) year term. This Agreement may be renewed for successive one additional five (5) year renewal terms provided that prior to the end of each renewal term, NERC shall conduct an audit pursuant to subsection 6(i) to ensure that [REGIONAL ENTITY] continues to meet all applicable statutory and regulatory requirements necessary to maintain its eligibility for delegation. Provided, that year term unless either Party may terminate shall provide written notice of termination of this Agreement as of to the end of a term by giving written notice to terminate at least one (1) other no later than one year prior to the end then effective expiration of the term. If Term. In such event, this Agreement is not renewed or becomes subject shall terminate upon the expiration of then effective Term, unless otherwise mutually agreed to by the Parties.~~

(c) In the event of the termination for any reason of this Agreement, the Parties shall work to provide for a transition of [REGIONAL ENTITY]’s Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement. ~~The termination of this Agreement shall not take effect until such transition has been effected, unless the transition period exceeds one year, at which time~~

~~[REGIONAL ENTITY] may unilaterally terminate.~~

~~(e)~~(d) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by [REGIONAL ENTITY] and NERC.

~~(d)~~(e) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. [REGIONAL ENTITY] and NERC agree not to sue each other or their directors, officers, employees [REGIONAL ENTITY] and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and [REGIONAL ENTITY] shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of ~~the~~ [REGIONAL ENTITY]'s or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that ~~the~~ [REGIONAL ENTITY] or NERC is found liable for gross negligence or intentional misconduct, in which case [REGIONAL ENTITY] or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. **No Third Party Beneficiaries.** Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party-, except as otherwise specifically provided herein and in Section 15(c).

15. **Confidentiality.**

(a) During the course of the Parties' performance under this Agreement, a Party may receive proprietary, business sensitive, or critical infrastructure information ("Confidential Information, as defined") necessary to fulfill its respective obligations in Section 1500 connection with this Agreement. The Parties agree that their mutual objective under this provision is to provide appropriate protection for Confidential Information, while maintaining the ability to conduct their respective business activities.

(b) No obligation of NERC's Rules of Procedure. confidentiality shall apply to any information that the recipient: (i) already possesses without obligation of confidentiality; (ii) develops independently; or (iii) rightfully receives without any obligation of confidentiality from a third party.

(c) The Parties may transfer or exchange such Confidential Information with and between the other Regional Entities as third-party beneficiaries of the terms of this Agreement, provided the Parties and the other Regional Entities as third-party beneficiaries continue to maintain the confidentiality of such information.

(d) Except as set forth herein and within the NERC Rules of Procedure, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party or specified third-party beneficiary of this Agreement, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party or specified third-party beneficiary of this Agreement that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party or specified third-party beneficiary of this Agreement to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party or specified third-party beneficiary of this Agreement waives

compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information. ~~In addition, each~~

(e) Each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein.

(f) This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement, nor does it prohibit permitted disclosures as set forth in the NERC Rules of Procedure.

16. **Amendment.** Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. **Amendments to the NERC Rules of Procedure.** NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of [REGIONAL ENTITY] under this Agreement without first obtaining the consent of [REGIONAL ENTITY], which consent shall not be unreasonably withheld or delayed. To the extent [REGIONAL ENTITY] does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of [REGIONAL ENTITY] under this Agreement, [REGIONAL ENTITY] shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by [REGIONAL ENTITY] to NERC and the Commission, or at such other time as may be mutually agreed by [REGIONAL ENTITY] and NERC.

18. **Dispute Resolution.** In the event a dispute arises under this Agreement between NERC and [REGIONAL ENTITY] (including disputes relating to NERC's performance of its

obligations under this Agreement and/or disputes relating to [REGIONAL ENTITY]'s performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. [REGIONAL ENTITY] shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, provided, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), provided,

Amended and Restated Pro Forma Regional Delegation Agreement Page 24 of 256

that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. Provided, however, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. **Notice.** ~~Whether expressly so stated or not, all~~All notices, demands, requests, and other communications required ~~or,~~ permitted by, or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand, email or ~~reputable~~ overnight courier:

If to NERC:

If to [REGIONAL ENTITY]:

North American Electric Reliability Corporation
1325 G Street NW, Suite 600
Washington, DC 20005
Attn: General Counsel
Email: legal@nerc.net

Attn:
Email:

~~North American Electric Reliability Corporation 116-390 Village Blvd. Princeton, NJ 08540-5721~~
~~Attn: General Counsel~~
~~Faexsimile: (609) 452-9550~~

Attn:
Faexsimile:

20. **Governing Law.** When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of ~~New Jersey~~Georgia without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in ~~New Jersey~~Georgia. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in Georgia for the purpose of hearing and determining any action not heard and determined by the Commission.

21. **Headings.** The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. **Savings Clause.** Nothing in this Agreement shall be construed to preempt or limit any authority that [REGIONAL ENTITY] may have to adopt reliability requirements or take other

actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. Entire Agreement. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. Execution of Counterparts. This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

[REGIONAL ENTITY]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

NORTH AMERICAN
ELECTRIC RELIABILITY CORPORATION — [REGIONAL ENTITY]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A — Regional Boundaries

Exhibit A to the delegation agreement for each Regional Entity receiving Delegated Authority shall describe the geographic or electrical boundaries covered by the proposed delegation of authority. **Exhibit A** for each Regional Entity shall reflect coordination with neighboring Regional Entities, as appropriate, to ensure that all relevant areas are either included within the geographic boundaries of a Regional Entity or specifically identified as not being within the geographic boundaries of any Regional Entity. Any exclusions of geographic or electrical areas or of Registered Entities from the scope of the Regional Entity's Delegated Authority within the geographic or electrical boundaries shown ~~on~~ **Exhibit A**, and any additions of geographic or electrical areas or of Registered Entities located outside the boundaries shown ~~on~~ **Exhibit A** to the scope of the Regional Entity's Delegated Authority, shall be specifically stated or described in **Exhibit A**.

Exhibit B —Governance

~~Exhibit B shall set forth the Regional Entity's bylaws, which NERC agrees demonstrate that the~~The Regional Entity meets~~bylaws shall meet~~ the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence ~~offrom~~ the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

Exhibit C – ~~Regional Standard Development Procedure~~ Intentionally left blank

~~Exhibit C shall set forth the Regional Entity's standards development procedure, which NERC agrees meets the following common attributes:~~

COMMON ATTRIBUTE 1

~~Proposed regional reliability standards shall be subject to approval by NERC, as the electric reliability organization, and by FERC before becoming mandatory and enforceable under Section 215 of the FPA [add reference to any applicable authorities in Canada and Mexico]. No regional reliability standard shall be effective within the [Regional Entity Name] area unless filed by NERC with FERC [and applicable authorities in Canada and Mexico] and approved by FERC [and applicable authorities in Canada and Mexico].~~

COMMON ATTRIBUTE 2

~~[Regional Entity Name] regional reliability standards shall provide for as much uniformity as possible with reliability standards across the interconnected bulk power system of the North American continent. A [Regional Entity Name] reliability standard shall be more stringent than a continent wide reliability standard, including a regional difference that addresses matters that the continent wide reliability standard does not, or shall be a regional difference necessitated by a physical difference in the bulk power system. A regional reliability standard that satisfies the statutory and regulatory criteria for approval of proposed North American reliability standards, and that is more stringent than a continent wide reliability standard, would generally be acceptable.~~

COMMON ATTRIBUTE 3

~~[Regional Entity Name] regional reliability standards, when approved by FERC [add applicable authorities in Canada], shall be made part of the body of NERC reliability standards and shall be enforced upon all applicable bulk power system owners, operators, and users within the [Regional Entity Name] area, regardless of membership in the region.~~

COMMON ATTRIBUTE 4

Requester ↓ The requester is the sponsor of the regional reliability standard request and may assist in the development of the standard. Any member of [Regional Entity Name], or group within [Regional Entity Name] shall be allowed to request that a regional reliability standard be developed, modified, or withdrawn. Additionally, any entity (person, organization, company, government agency, individual, etc.) that is directly and materially affected by the reliability of the bulk power system in the [Regional Entity Name] area shall be allowed to request a regional reliability standard be developed, modified, or withdrawn.

COMMON ATTRIBUTE 5

~~[Standards or other named] committee ↓ The [Regional Entity Name] [standards] committee manages the standards development process. The [standards] committee will consider which requests for new or revised standards shall be assigned for development (or existing standards considered for deletion). The [standards] committee will advise the [Regional Entity Name] board on standards presented for adoption.~~

COMMON ATTRIBUTE 6

~~[Alternative 6A: For a Regional Entity that chooses to vote using a balanced stakeholder committee.]~~

~~The [standards] committee is a balanced stakeholder committee, inclusive of all stakeholder interests that provide for or are materially impacted by the reliability of the bulk power system. [The [standards] committee votes to approve standards.] See Appendix A for the representation model of the [standards] committee.~~

~~[Alternative 6B: For a Regional Entity that chooses to vote using a balanced ballot body of stakeholders.]~~

~~[Registered ballot body ↓ The registered ballot body comprises all entities or individuals that qualify for one of the stakeholder segments; are registered with [Regional Entity Name] as potential ballot participants in the voting on standards; and are current with any designated fees. Each member of the registered ballot body is eligible to vote on standards. [Each standard action has its own ballot pool formed of interested members of the registered ballot body. Each ballot pool comprises those members of the registered ballot body that respond to a pre-ballot survey for that particular standard action indicating their desire to participate in such a ballot pool.] The representation model of the registered ballot body is provided in Appendix A.]~~

COMMON ATTRIBUTE 7

~~[Regional Entity Name] will coordinate with NERC such that the acknowledgement of receipt of a standard request identified in step 1, notice of comment posting period identified in step 4, and notice for vote identified in step 5 below are concurrently posted on both the [Regional Entity Name] and NERC websites.~~

COMMON ATTRIBUTE 8

~~An acceptable standard request shall contain a description of the proposed regional reliability standard subject matter containing sufficiently descriptive detail to clearly define the purpose, scope, impacted parties, and other relevant information of the proposed standard.~~

COMMON ATTRIBUTE 9

~~Within [no greater than 60] days of receipt of a completed standard request, the [standards] committee shall determine the disposition of the standard request.~~

COMMON ATTRIBUTE 10

~~The [standards] committee may take one of the following actions:~~

- ~~• Accept the standard request as a candidate for development of a new standard, revision of an existing standard, or deletion of an existing standard. The [standards] committee may, at its discretion, expand or narrow the scope of the standard request under consideration. The [standards] committee shall prioritize the development of standard in relation to other proposed standards, as may be required based on the volume of requests and resources.~~
- ~~• Reject the standard request. If the [standards] committee rejects a standard request, a written explanation for rejection will be delivered to the requester within [no greater than 30] days of the decision.~~
- ~~• Remand the standard request back to the requester for additional work. The standards process manager will make reasonable efforts to assist the requester in addressing the deficiencies identified by the [standards] committee. The requester may then resubmit the modified standard request using the process above. The requester may choose to withdraw the standard request from further consideration prior to acceptance by the [standards] committee.~~

COMMON ATTRIBUTE 11

~~Any standard request that is accepted by the [standards] committee for development of a standard (or modification or deletion of an existing standard) shall be posted for public viewing on the [Regional Entity Name] website within [no greater than 30] days of acceptance by the committee.~~

COMMON ATTRIBUTE 12

~~The standards process manager shall submit the proposed members of the drafting team to the [standards] committee. The [standards] committee shall approve the drafting team membership within 60 days of accepting a standard request for development, modifying the recommendations of the standards process manager as the committee deems appropriate, and assign development of the proposed standard to the drafting team.~~

COMMON ATTRIBUTE 13

~~At the direction from the [standards] committee, the standards process manager shall facilitate the posting of the draft standard on the [Regional Entity Name] website, along with a draft implementation plan and supporting documents, for a no less than a [30] day comment period. The standards process manager shall provide notice to [Regional Entity Name] stakeholders and other potentially interested entities, both within and outside of the [Regional Entity Name] area, of the posting using communication procedures then currently in effect or by other means as deemed appropriate.~~

COMMON ATTRIBUTE 14

~~The drafting team shall prepare a summary of the comments received and the changes made to the proposed standard as a result of these comments. The drafting team shall summarize comments that were rejected by the drafting team and the reason(s) that these comments were rejected, in part or whole. The summary, along with a response to each comment received will be posted on the [Regional Entity Name] website no later than the next posting of the proposed standard.~~

COMMON ATTRIBUTE 15

~~Upon recommendation of the drafting team, and if the [standards] committee concurs that all of the requirements for development of the standard have been met, the standards process manager shall post the proposed standard and implementation plan for ballot and shall announce the vote to approve the standard, including when the vote will be conducted and the method for voting. Once the notice for a vote has been issued, no substantive modifications may be made to the proposed standard unless the revisions are posted and a new notice of the vote is issued.~~

COMMON ATTRIBUTE 16

~~The standards process manager shall schedule a vote by the [Regional Entity Name] [registered ballot body/[standards] committee]. The vote shall commence no sooner than [15] days and no later than [30] days following the issuance of the notice for the vote.~~

COMMON ATTRIBUTE 17

~~[Alternative 17A: For an RE that chooses to vote using a balanced stakeholder committee.]~~

~~The [standards] committee shall give due consideration to the work of the drafting team, as well as the comments of stakeholders and minority objections, in approving a proposed regional reliability standard for submittal to the [Regional Entity Name] board. The [standards] committee may vote to approve or not approve the standard. Alternatively, the~~

~~[standards] committee may remand the standard to the drafting team for further work or form a new drafting team for that purpose.~~

~~[Alternative 17B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]~~

The ~~[Regional Entity Name] registered ballot body shall be able to vote on the proposed standard during a period of [not less than 10] days.~~

COMMON ATTRIBUTE 18

~~[Alternative 18A: For an RE that chooses to vote using a balanced stakeholder committee.]~~

The ~~[standards] committee may not itself modify the standard without issuing a new notice to stakeholders regarding a vote of the modified standard.~~

~~[Alternative 18B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]~~

All members of ~~[Regional Entity Name] are eligible to participate in voting on proposed new standards, standard revisions or standard deletions. [Alternatively: Each standard action requires formation of a ballot pool of interested members of the registered ballot body.]~~

COMMON ATTRIBUTE 19

~~[Alternative 19A: For an RE that chooses to vote using a balanced stakeholder committee.]~~

Actions by the committee shall be recorded in the regular minutes of the committee.

~~[Alternative 19B: For an RE that chooses to vote using a balanced ballot body of stakeholders.]~~

Approval of the proposed regional reliability standard shall require a ~~[two thirds] majority in the affirmative (affirmative votes divided by the sum of affirmative and negative votes). Abstentions and non-responses shall not count toward the results, except that abstentions may be used in the determination of a quorum. A quorum shall mean [XX%] of the members of the [registered ballot body/ballot pool] submitted a ballot.~~

COMMON ATTRIBUTE 20

Under no circumstances may the board substantively modify the proposed regional reliability standard.

COMMON ATTRIBUTE 21

Once a regional reliability standard is approved by the board, the standard will be submitted to NERC for approval and filing with FERC [and applicable authorities in Canada and Mexico.]

COMMON ATTRIBUTE 22

- ~~**Open**—Participation in the development of a regional reliability standard shall be open to all organizations that are directly and materially affected by the [Regional Entity Name] bulk power system reliability. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in [Regional Entity Name], and shall not be unreasonably restricted on the basis of technical qualifications or other such requirements. Meetings of drafting teams shall be open to the [Regional Entity Name] members and others.~~

COMMON ATTRIBUTE 23

- ~~**Balanced**—The [Regional Entity Name] standards development process strives to have an appropriate balance of interests and shall not be dominated by any two interest categories and no single interest category shall be able to defeat a matter.~~

COMMON ATTRIBUTE 24

- ~~**Inclusive**—Any entity (person, organization, company, government agency, individual, etc.) with a direct and material interest in the bulk power system in the [Regional Entity Name] area shall have a right to participate by: a) expressing a position and its basis, b) having that position considered, and c) having the right to appeal.~~

COMMON ATTRIBUTE 25

- ~~**Fair due process**—The regional reliability standards development procedure shall provide for reasonable notice and opportunity for public comment. At a minimum, the procedure shall include public notice of the intent to develop a standard, a public comment period on the proposed standard, due consideration of those public comments, and a ballot of interested stakeholders.~~

COMMON ATTRIBUTE 26

- ~~**Transparent**—All actions material to the development of regional reliability standards shall be transparent. All standards development meetings shall be open and publicly noticed on the regional entity's Web site.~~

COMMON ATTRIBUTE 27

- Does not unnecessarily delay development of the proposed reliability standard.

COMMON ATTRIBUTE 28

Each standard shall enable or support one or more of the reliability principles, thereby ensuring that each standard serves a purpose in support of the reliability of the regional bulk power system. Each standard shall also be consistent with all of the reliability principles, thereby ensuring that no standard undermines reliability through an unintended consequence.

COMMON ATTRIBUTE 29

While reliability standards are intended to promote reliability, they must at the same time accommodate competitive electricity markets. Reliability is a necessity for electricity markets, and robust electricity markets can support reliability. Recognizing that bulk power system reliability and electricity markets are inseparable and mutually interdependent, all regional reliability standards shall be consistent with NERC's market interface principles. Consideration of the market interface principles is intended to ensure that standards are written such that they achieve their reliability objective without causing undue restrictions or adverse impacts on competitive electricity markets.

COMMON ATTRIBUTE 30

To ensure uniformity of regional reliability standards, a regional reliability standard shall consist of the elements identified in this section of the procedure. These elements are intended to apply a systematic discipline in the development and revision of standards. This discipline is necessary to achieving standards that are measurable, enforceable, and consistent.

COMMON ATTRIBUTE 31

All mandatory requirements of a regional reliability standard shall be within the standard. Supporting documents to aid in the implementation of a standard may be referenced by the standard but are not part of the standard itself.

COMMON ATTRIBUTE 32

Applicability	Clear identification of the functional classes of entities responsible for complying with the standard, noting any specific additions or exceptions. If not applicable to the entire [Regional Entity Name] area, then a clear identification of the portion of the bulk power system to which the standard applies. Any limitation on the applicability of the standard based on electric facility requirements should be
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described.

COMMON ATTRIBUTE 33

Measure(s)	<p>Each requirement shall be addressed by one or more measures. Measures are used to assess performance and outcomes for the purpose of determining compliance with the requirements stated above. Each measure will identify to whom the measure applies and the expected level of performance or outcomes required demonstrating compliance. Each measure shall be tangible, practical, and as objective as is practical. It is important to realize that measures are proxies to assess required performance or outcomes. Achieving the measure should be a necessary and sufficient indicator that the requirement was met. Each measure shall clearly refer to the requirement(s) to which it applies.</p>
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COMMON ATTRIBUTE 34

Compliance Monitoring Process	<p>Defines for each measure:</p> <ul style="list-style-type: none">• The specific data or information that is required to measure performance or outcomes.• The entity that is responsible for providing the data or information for measuring performance or outcomes.• The process that will be used to evaluate data or information for the purpose of assessing performance or outcomes.• The entity that is responsible for evaluating data or
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	<p>information to assess performance or outcomes:</p> <ul style="list-style-type: none">• The time period in which performance or outcomes is measured, evaluated, and then reset.• Measurement data retention requirements and assignment of responsibility for data archiving.
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~~**EXHIBIT Exhibit D — — COMPLIANCE-Compliance MONITORING-Monitoring ANDand ENFORCEMENT-Enforcement PROGRAMProgram**~~

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

[REGIONAL ENTITY] will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within [REGIONAL ENTITY]'s geographic or electrical boundaries, and such other scope, set forth ~~on~~ in Exhibit A of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

[REGIONAL ENTITY], to the extent required in the Rules of Procedure, shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be either [REGIONAL ENTITY]'s board ~~or,~~ a committee of the board, a balanced compliance panel reporting directly to [REGIONAL ENTITY]'s board or an independent hearing panel. [REGIONAL ENTITY]'s hearing body is [its board] [if not the board, insert the name of the committee or group serving as the hearing body].

[If the hearing body is a compliance panel other than the board, provide here a description of how the members of the compliance panel are selected and the qualifications to be selected for the compliance panel.]

To the extent required in the Rules of Procedure, [REGIONAL ENTITY] shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: [Describe any deviations, or state "None."]. If there are deviations from the NERC pro forma Hearing Procedures, [REGIONAL ENTITY]'s Hearing Procedures shall be included as a separate attachment to this **Exhibit D.**]

3.13.0 OTHER DECISION-MAKING BODIES

If [~~Regional Entity~~ **REGIONAL ENTITY**] uses other decision-making bodies within its compliance program, provide here a description of the function of that body to the extent not described elsewhere in the Agreement or exhibits, how the members of that body are selected, and the qualifications to be selected for that body.]

Exhibit E — Funding

1. Scope of ~~a~~Activities ~~f~~Funded through the ERO ~~f~~Funding ~~m~~Mechanism

[Regional Entity] shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and [Regional Entity], in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of [Regional Entity's] business plan and budget. The annual schedule for the preparation of business plans and budgets shall require [Regional Entity] (i) to submit to NERC draft(s) of [Regional Entity]'s proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by [Regional Entity] Board of Trustees to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of [Regional Entity]'s business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The [Regional Entity] business plan and budget submission shall include supporting materials, including [Regional Entity]'s complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. [Regional Entity]'s business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve [Regional Entity]'s proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of

this **Exhibit E**, or shall direct [Regional Entity] to make such revisions as NERC deems appropriate prior to approval. NERC shall submit [Regional Entity]'s approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of [REGIONAL ENTITY]'s delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. [Regional Entity] shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying [Regional Entity's] assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of [Regional Entity's] assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

[IF NERC WILL BILL AND COLLECT ASSESSMENTS DIRECTLY FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):]

(a) NERC shall submit invoices to the load-serving entities or designees identified by [Regional Entity] covering the NERC and [Regional Entity] assessments approved for collection.

[IF THE REGIONAL ENTITY WILL ACT AS THE BILLING AND COLLECTION AGENT ON BEHALF OF NERC TO BILL AND COLLECT ASSESSMENTS FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):]

(a) NERC and [Regional Entity] agree that [Regional Entity] shall act as the billing and collection agent on behalf of NERC to bill and collect [Regional Entity]'s assessments from load-serving entities and designees (or such other entities as agreed by NERC and [Regional Entity]). [Regional Entity] agrees that it shall (i) issue all invoices to load-serving entities and other entities in a prompt and timely manner after receipt from NERC of the information needed to issue the invoices; (ii) exercise commercially reasonable efforts to collect invoices that are not paid as of the due date(s); and (iii) transfer all funds collected to NERC in a timely manner, as follows: Prior to the start of each calendar quarter, and once per week thereafter until all billings for the quarter are collected, [Regional Entity] will electronically transfer to NERC, in immediately available funds, all payments received by [Regional Entity] from load-serving entities or other entities for payment of invoices.

On the same day that [Regional Entity] makes each electronic transfer of funds to NERC, [Regional Entity] shall send an e-mail to the Chief Financial Officer or Controller of NERC detailing the collections being transmitted, including a listing of the load-serving entities or other entities from which payments were collected and the amount collected from each entity. [Note: If NERC and Regional Entity have a different collection and payment arrangement, the preceding two sentences will be modified accordingly to describe it.]

[Regional Entity] agrees that it shall not in any way use its position as billing and collection agent for NERC to attempt to influence NERC's policies or decisions on matters relating to adoption of Reliability Standards (including Regional Reliability Standards and Regional Variances), administration of the compliance monitoring and enforcement program and other compliance and enforcement matters, determination and imposition of penalties and sanctions, budgeting matters including review and approval of [Regional Entity's] budgets and business plans, or any other NERC decisions, including by issuing invoices, engaging in collection activities or transferring funds collected to NERC in an untimely manner or other than in accordance with this Agreement.

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from ~~ERO~~Applicable Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, [Regional Entity] shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, [Regional Entity] is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within [REGIONAL ENTITY]'s region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within [Regional Entity]'s region.

(c) Upon approval by ~~ERO~~Applicable Governmental Authorities of [Regional Entity]'s annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay [Regional Entity's] annual assessment to Regional Entity in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by [Regional Entity], other than penalty monies received from an operational function or division or affiliated entity of [Regional Entity], shall be applied as a general offset to [Regional Entity]'s budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of [Regional Entity] shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for [Regional Entity's] Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), [Regional Entity] performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"): [List and describe all non-statutory activities performed by Regional Entity, or state "None."]

[Regional Entity] shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions: [List and describe the methods and procedures Regional Entity employs to keep costs and funding of statutory activities separate from costs and funding of non-statutory activities, including at a minimum a description of how Regional Entity's bank accounts and receivables/payables procedures are set up for both statutory and non-statutory functions, a description of how Regional Entity ensures each employee involved in both statutory and non-statutory functions keeps accurate time records reflecting his/her activities, and a description of how Regional Entity's general and administrative costs are allocated between statutory activities and non-statutory activities. If the necessary descriptions are lengthy they may be provided in a separate attachment labeled "Attachment E-1", and state here "See Attachment E-1." If Regional Entity has listed no non-statutory functions in the preceding paragraph, state here "Not applicable."]

[Regional Entity] shall provide its budget for such non-statutory activities to NERC at the same time that [Regional Entity] submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. [Regional Entity's] budget for non-statutory activities that is provided to NERC shall contain a detailed list of [Regional Entity's] non-statutory activities and a description of the funding sources for the non-statutory activities. [Regional Entity] agrees that no costs (which shall include a reasonable allocation of [Regional Entity]'s general and administrative costs) of non-statutory activities are to be included in the calculation of [Regional Entity's] assessments, dues, fees, and other charges for its statutory activities.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if [Regional Entity] determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, [Regional Entity] shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in [Regional Entity]'s approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct [Regional Entity] to make such revisions as NERC deems appropriate prior to approval. NERC shall submit [Regional Entity]'s approved amended or supplemental

business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Records

Upon a request made to [Regional Entity] with reasonable notice, NERC shall have access to and may review all financial records of [Regional Entity], including records used to prepare [Regional Entity's] financial statements. NERC shall conduct reviews of the quarterly and annual financial statements submitted by [Regional Entity] pursuant to Section 9(h) and (i) of the Agreement. [Regional Entity] shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC.

**Attachment 3A: CLEAN – Revised Regional Delegation Agreement with
Florida Reliability Coordinating Council, Inc.**

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
AND FLORIDA RELIABILITY COORDINATING COUNCIL**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”)

Effective as of January 1, 2016, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and Florida Reliability Coordinating Council (“FRCC”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified in **Exhibit A** to this Agreement, and for other purposes. NERC and FRCC may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824o) (hereafter “the Act”), which, among other things, provides for the establishment of an Electric Reliability Organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional

entities (“Regional Entities”) such as FRCC, provided that:

- (A) The Regional Entity is governed by —
 - (i) an independent board;
 - (ii) a balanced stakeholder board; or
 - (iii) a combination independent and balanced stakeholder board.
- (B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2)

of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, FRCC is not organized on an Interconnection-wide basis and therefore is not entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through FRCC to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that FRCC meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and FRCC, having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate

the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and FRCC agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to FRCC to propose and enforce Reliability Standards, consistent with Section 4(d) and the boundaries identified in **Exhibit A** pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. Representations.

(a) For purposes of its Delegated Authority, FRCC hereby represents and warrants to NERC that:

(i) FRCC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. FRCC is governed in accordance with its bylaws by a balanced stakeholder board. Pursuant to these bylaws, no two industry sectors can control any

FRCC decision and no single industry sector can veto any FRCC decision. The relevant criteria for the establishment of such bylaws are attached hereto in **Exhibit B**. No other FRCC corporate governance documents shall be inconsistent with the criteria in **Exhibit B**.

(ii) FRCC has developed a standards development procedure, which provides the process that FRCC may use to develop Regional Reliability Standards that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, FRCC has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within FRCC's geographic boundaries as shown in **Exhibit A**.

(b) NERC hereby represents and warrants to FRCC that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

(iii) NERC shall comply with its Certificate of Incorporation, Bylaws and Rules of Procedure, as from time to time adopted, approved or amended.

3. General Covenants.

(a) During the term of this Agreement, FRCC shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) FRCC shall provide NERC with a copy of its Regional Entity Rules upon request by NERC.

(c) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of FRCC under this Agreement without first obtaining the consent of FRCC, which consent shall not be unreasonably withheld or delayed.

(d) During the term of this Agreement, NERC and FRCC shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

(e) For purposes of this Agreement, NERC shall collaborate with the Regional Entities in the development of guidance, policies and procedures, and oversight parameters as contemplated by this Agreement. In the event that collaboration is not successful on any such matter, the NERC President may issue a directive with respect to such matter pursuant to Section 8 herein, and such directive shall be binding upon FRCC.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of FRCC in this Agreement, FRCC's corporate governance documents, FRCC standards development process, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to FRCC for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth in **Exhibit A**, provided, that FRCC shall not monitor and enforce compliance with Reliability Standards for FRCC or an affiliated entity with respect to reliability functions for which FRCC or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to FRCC within, or additions to this delegation of authority to FRCC beyond, the geographic boundaries set forth in **Exhibit A** are stated in **Exhibit A**.

(b) In circumstances where FRCC or an affiliated entity is a Registered Entity, FRCC shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce FRCC's or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit FRCC from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified in **Exhibit A** that is within the United States. Any delegation of authority by Applicable Governmental Authorities in Canada or Mexico shall be governed by the law of such authority or a separate agreement and is outside the scope of this Agreement; provided, however, that both FRCC and NERC shall endeavor to ensure that this Agreement and any such separate agreement are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, FRCC shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, FRCC shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords FRCC reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards through FRCC's process. FRCC's process shall be consistent with the NERC Rules of Procedure and Commission directives. Any changes to FRCC's process shall be submitted to the NERC Board of Trustees for approval and upon approval, be submitted to the Commission for approval. Proposals approved through FRCC's process shall be reviewed by the NERC Board of Trustees after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time.

The NERC Board of Trustees shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. FRCC may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, FRCC shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the boundaries set forth in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and FRCC agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, inter alia, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. FRCC may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, FRCC agrees to comply with the NERC Rules of Procedure, with any

directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board of Trustees or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) FRCC shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual ERO Compliance Monitoring and Enforcement Program Implementation Plan.

(c) FRCC shall report promptly to NERC information regarding noncompliance with a Reliability Standard, and its eventual disposition by FRCC, as set forth in, and subject to the confidentiality and disclosure provisions of, the NERC Rules of Procedure, the NERC Compliance Monitoring and Enforcement Program, this Agreement, compliance and enforcement program procedures and guidance that NERC may from time to time develop and the ERO Regulations. NERC shall promptly forward such report to the Commission, as required by the ERO Regulations, or as the Commission shall from time to time direct. NERC and FRCC shall cooperate in filing such periodic summary reports and analyses as the Commission shall from time to time direct.

(d) All dispositions by FRCC of noncompliance with Reliability Standards shall be reported to NERC for review. NERC shall develop and implement policies and procedures for the review and, where appropriate, approval of dispositions of noncompliance.

(e) As part of its compliance monitoring and enforcement program, FRCC shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

7. Delegation-Related Activities.

NERC will engage FRCC on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the

Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed in **Exhibit E**. NERC may from time to time develop policies or procedures, which shall be used by FRCC in the performance of the delegation-related activities. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (g), each of which shall be considered a statutory activity:

(a) **Certification of Bulk-Power System Entities.** The NERC Board of Trustees shall set criteria for certification in accordance with the NERC Rules of Procedure. Certifications shall be issued in accordance with the NERC Rules of Procedure.

(b) **Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.**

(i) The NERC Board of Trustees shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by FRCC and other Regional Entities. FRCC shall provide timely and accurate information relating to registrations to NERC, as needed, to enable NERC to maintain a registration database that is accurate and up-to-date and to enable NERC to satisfy its monthly reporting obligation.

(iii) The NERC Board of Trustees Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board of Trustees Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) **Reliability Assessment and Performance Analysis.** FRCC shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. FRCC shall also develop and

maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives, and policies and procedures related to data-gathering, quality control, forms, and reporting mechanisms that NERC may from time to time develop.

(d) **Event Analysis and Reliability Improvement.** FRCC shall conduct event analysis pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop. NERC and FRCC shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, FRCC shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) **Training and Education.** FRCC may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) **Situation Awareness.** FRCC shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System.

(g) **Critical Infrastructure Security.** FRCC shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of FRCC's performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and FRCC that matters relating to

NERC's oversight of FRCC's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and FRCC and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with FRCC and other Regional Entities, performance goals, performance reports, measures and other parameters (including, without limiting the scope of such goals, financial performance goals), which shall be used to measure NERC's and FRCC's performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. FRCC shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate FRCC's performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters, and performance reports to evaluate FRCC's performance of its delegated functions and related activities and to provide advice and direction to FRCC on performance improvements. The performance goals, measures and other parameters, and the values of such goals, measures and parameters, shall be reviewed by NERC, FRCC and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, FRCC shall be required to develop, submit for NERC approval, and implement action plans to address, areas of its performance that are reasonably determined by NERC, based on analysis of FRCC's performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring FRCC to adopt and implement an action plan or other remedial action, NERC shall issue a notice to FRCC of the need and basis for an action plan or other remedial action and provide an opportunity for FRCC to submit a written response contesting NERC's evaluation of FRCC's performance and the need for an action plan. FRCC may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board of Trustees review and reconsider the request.

NERC and FRCC shall work collaboratively as needed in the development and implementation of FRCC's action plan. A final action plan submitted by FRCC to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to FRCC standardized training and education programs, which shall be designed taking into account input from FRCC and other Regional Entities, for FRCC personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to FRCC concerning the manner in which FRCC shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered "directives." NERC shall initiate the development of a directive through a collaborative process with FRCC and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and FRCC and, if applicable, other Regional Entities, are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, FRCC, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by FRCC, the NERC Board of Trustees (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without FRCC's agreement, *provided*, that FRCC shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and FRCC and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the

directive will be made public, *provided*, that it is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board of Trustees (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which FRCC, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The NERC Board of Trustees or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the NERC Board of Trustees or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. FRCC, either individually or in conjunction with other Regional Entities, may request that the NERC Board of Trustees or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with FRCC, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) NERC may perform reviews of FRCC on a reasonable periodicity to determine FRCC's compliance with this Agreement, any policies or procedures established by NERC, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c) and to monitor the implementation of guidance and directions issued by the NERC Board of Trustees pursuant to Section 8(d). All such periodic reviews shall comply with the NERC Rules of Procedure and Commission directives.

(g) The Commission and the Commission staff shall have full access to action plans and remedial actions, directives, and directions and guidance issued pursuant to subsections (a)(iii), (c)(iv) and (d), respectively, that are maintained as non-public.

9. Funding. FRCC and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) FRCC shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. FRCC's proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, FRCC to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E**. FRCC's business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) FRCC and NERC agree that the portion of FRCC's approved budget for the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by FRCC and approved by NERC and the Commission. If FRCC proposes to use a formula other than Net Energy for Load beginning in the following year, FRCC shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and FRCC to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be

presumed to satisfy this equitability requirement.

(d) NERC shall provide FRCC with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) FRCC shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E**, as well as for all other activities of FRCC, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund FRCC's performance of its Delegated Authority and related activities in accordance with FRCC's Commission-approved business plan and budget, in the amount of FRCC's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting FRCC's approved assessments from end users and other entities and payment of the approved assessment amount to FRCC, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon FRCC that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without FRCC's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and FRCC fiscal year budget with the actual results at the NERC and Regional Entity levels. FRCC shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) FRCC shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) FRCC shall submit audited financial statements annually, including supporting materials, in a form provided by NERC, by no later than the date reasonably required and designated in writing by NERC to enable NERC to assemble and file the required annual budget to actual true up filing with the Commission.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which FRCC shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of FRCC) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which FRCC shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of FRCC. *Provided*, that, subject to approval by NERC and the Commission, FRCC may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. FRCC may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit FRCC from contracting with other entities to assist it in carrying out its Delegated Authority, provided FRCC retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for

herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on January 1, 2016 (the “Effective Date”).

(b) The term of this Agreement shall commence on the Effective Date, and shall have an initial term of five years (the “Term”), ending on December 31, 2020. Thereafter, the Term shall automatically extend for one additional five-year term unless either Party shall provide written notice of termination of this Agreement to the other no later than one year prior to the then effective expiration of the Term. In such event, this Agreement shall terminate upon the expiration of then effective Term, unless otherwise mutually agreed to by the Parties.

(c) In the event of the termination of this Agreement, the Parties shall work to provide for a transition of FRCC’s Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement.

(d) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by FRCC and NERC.

(e) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. FRCC and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and FRCC shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of FRCC's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that FRCC or NERC is found liable for gross negligence or intentional misconduct, in which case FRCC or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party, except as otherwise specifically provided herein and in Section 15(c).

15. Confidentiality.

(a) During the course of the Parties' performance under this Agreement, a Party may receive proprietary, business sensitive, or critical infrastructure information ("Confidential Information") necessary to fulfill its respective obligations in connection with this Agreement. The Parties agree that their mutual objective under this provision is to provide appropriate protection for Confidential Information, while maintaining the ability to conduct their respective business activities.

(b) No obligation of confidentiality shall apply to any information that the recipient:
(i) already possesses without obligation of confidentiality; (ii) develops independently; or (iii)

rightfully receives without any obligation of confidentiality from a third party.

(c) The Parties may transfer or exchange such Confidential Information with and between the other Regional Entities as third-party beneficiaries of the terms of this Agreement, provided the Parties and the other Regional Entities as third-party beneficiaries continue to maintain the confidentiality of such information.

(d) Except as set forth herein and within the NERC Rules of Procedure, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party or specified third-party beneficiary of this Agreement, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party or specified third-party beneficiary of this Agreement that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party or specified third-party beneficiary of this Agreement to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party or specified third-party beneficiary of this Agreement waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information.

(e) Each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein.

(f) This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement, nor does it prohibit permitted disclosures as set forth in the NERC Rules of Procedure.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended

unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of FRCC under this Agreement without first obtaining the consent of FRCC, which consent shall not be unreasonably withheld or delayed. To the extent FRCC does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of FRCC under this Agreement, FRCC shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by FRCC to NERC and the Commission, or at such other time as may be mutually agreed by FRCC and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and FRCC (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to FRCC's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. FRCC shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, provided, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), provided, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. Provided, however, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts

jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. All notices, demands, requests, and other communications required, permitted by, or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand, email or overnight courier:

If to NERC:

North American Electric Reliability
Corporation
1325 G Street NW, Suite 600
Washington, DC 20005
Attn: General Counsel
Email: legal@nerc.net

If to FRCC:

Florida Reliability Coordinating Council
3600 Bayport Drive
Suite 600
Tampa, Florida 33607
Attn: Morvarid M. Jones, General Counsel
Email: mjones@frcc.com

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of Georgia without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in Georgia. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in Georgia for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. **Savings Clause**. Nothing in this Agreement shall be construed to preempt or limit any authority that FRCC may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. **Entire Agreement**. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. **Execution of Counterparts**. This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

FLORIDA RELIABILITY
COORDINATING COUNCIL

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A — FRCC Boundaries
(see attached map)

The physical boundaries of the Florida Reliability Coordinating Council, Inc. (FRCC) are entirely within the geographic boundaries of the State of Florida. The FRCC region is comprised of peninsular Florida east of the Apalachicola River with the exception of a small section of northeast Florida (Baker and Nassau counties). The FRCC region is within the Eastern Interconnection and is under the direction of the FRCC Reliability Coordinator.

The FRCC region interconnects with the SERC region via 12 transmission lines. The 12 lines consist of two 500 kV, four 230 kV and six 115 kV lines. These lines are referred to as the “Florida / Southern Interface”.

The areas, noted above, in northeast Florida (part of Baker and Nassau counties) are served by Okefenokee Rural Electric Membership Corporation (OREMC), a member of the Georgia System Operations Corporation, and also include the Georgia Transmission Corporation (GTC) facilities physically located in Baker County, Florida. These areas are considered to be part of the SERC Reliability Corporation (SERC). SERC is responsible for registration and compliance monitoring of OREMC and the GTC facilities in Baker and Nassau Counties, Florida.

Within the FRCC region, compliance monitoring and enforcement functions with respect to reliability functions for which FRCC is a registered entity are performed by SERC pursuant to a contract between FRCC and SERC.

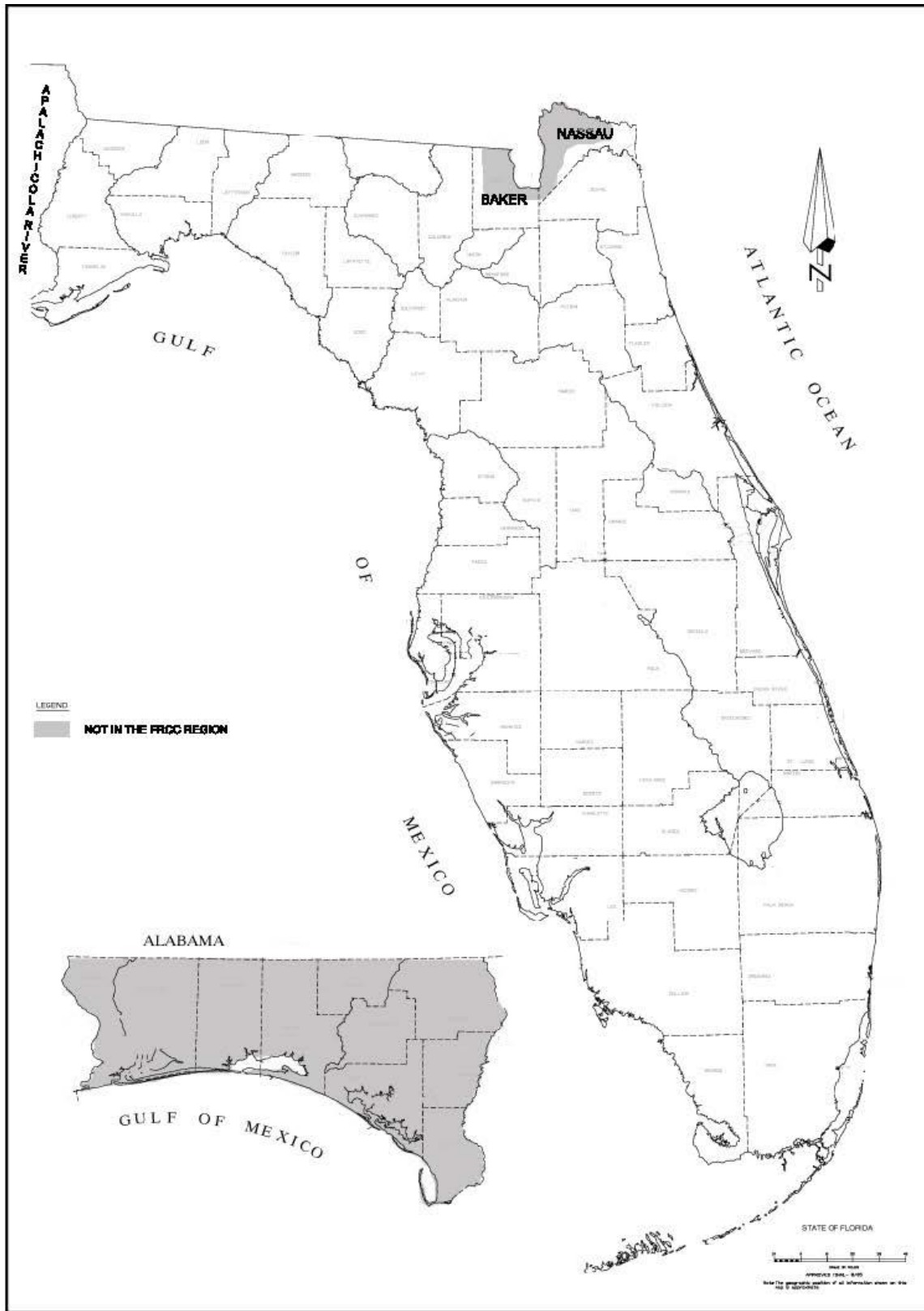


Exhibit B — Governance

The Regional Entity bylaws shall meet the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence from the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

Exhibit C [Intentionally left blank]

Exhibit D — Compliance Monitoring and Enforcement Program

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

FRCC will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within FRCC's geographic or electrical boundaries, and such other scope, set forth in **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

FRCC, to the extent required in the Rules of Procedure, shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be the FRCC Board Compliance Committee (BCC), a balanced compliance panel reporting directly to the FRCC Board of Directors.

The BCC will consist of one (1) representative of a Voting Member from each of the six (6) sectors in FRCC, who shall be a member of the Board of Directors. Each year, two (2) Directors (including Alternate Directors) from each Sector, will volunteer to serve in a BCC pool. At the time a hearing request is received, the Chair of the FRCC Board of Directors will appoint one member from each Sector to form the BCC for that hearing. Once appointed to a hearing, a Director or Alternate Director shall serve throughout the hearing's duration. The Board Member from the Registered Entity that has requested the hearing will not be selected for that BCC. In the event one (1) Sector of FRCC declines to participate on the BCC, the Chair of the Board of Directors shall randomly select one (1) additional BCC member from the remaining five (5) Sectors to constitute the BCC. The Chair of the FRCC Board of Directors will appoint a Chair and Vice-Chair of the BCC. Terms of BCC members will be equivalent to the time it takes to complete the hearing for which they were selected. Members may be re-appointed to subsequent terms without any limits to the number of terms they serve.

FRCC Industry Sectors are as follows:

- One (1) Member from the Investor Owned Utility Sector
- One (1) Member from the Suppliers Sector
- One (1) Member from the Non-Investor Owned Utility Wholesale Sector
- One(1) Member from the Load Serving Entity Sector
- One (1) Member from the Generating Load Serving Entity Sector
- One (1) Member from the General Sector

Each member of the BCC shall be a full voting member. There will be no alternates or proxies for the BCC members. Decisions of the BCC shall require (i) a quorum to be present requiring at least fifty (50) percent of the number of members assigned to the BCC provided, however, that in each case at least four (4) eligible Sectors are represented and (ii) a majority vote of the members of the BCC voting on the decision.

To the extent required in the Rules of Procedure, FRCC shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: None.

3.0 OTHER DECISION-MAKING BODIES

FRCC has engaged the SERC Reliability Corporation (SERC) to oversee the compliance monitoring and enforcement responsibility as related to FRCC's compliance with Reliability Standard requirements that are applicable to the functions for which FRCC is a Registered Entity.

Exhibit E — Funding

1. Scope of Activities Funded through the ERO Funding Mechanism

FRCC shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and FRCC, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of FRCC's business plan and budget. The annual schedule for the preparation of business plans and budgets shall require FRCC (i) to submit to NERC draft(s) of FRCC's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by FRCC Board of Trustees to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of FRCC's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The FRCC business plan and budget submission shall include supporting materials, including FRCC's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. FRCC's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve FRCC's proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct FRCC to make such revisions as NERC deems appropriate prior to approval.

NERC shall submit FRCC's approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of FRCC's delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. FRCC shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying FRCC's assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of FRCC's assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

(a) NERC shall submit invoices to the load-serving entities or designees identified by FRCC covering the NERC and FRCC assessments approved for collection.

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from Applicable Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, FRCC shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, FRCC is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within FRCC's region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within FRCC's region.

(c) Upon approval by Applicable Governmental Authorities of FRCC's annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay FRCC's annual assessment to FRCC in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by FRCC, other than penalty monies received from an operational function or division or affiliated entity of FRCC, shall be applied as a general offset to FRCC's budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity.

Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of FRCC shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for FRCC's Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), FRCC performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"):

Non-Statutory Activities

The FRCC Member Services (MS) Division provides services that enhance the reliable coordination of planning and operations relating to the bulk power system within the FRCC region. These services are carried out on behalf of FRCC MS members with oversight by two of the standing committees. The Planning Committee (PC) and Operating Committee (OC) and their various subcommittees, task forces and working groups, as well as the FRCC Planning and Operations (P&O) staff, support the MS activities of the region.

Planning Committee (PC)

The PC functional scope is to promote the reliability of the BES within the FRCC region by assessing and encouraging generation and transmission adequacy. The PC assesses generation adequacy by performing a reliability assessment taking into account projected load and resources. The PC, through the FRCC Regional Transmission Planning Process, provides a vehicle for ensuring that transmission planning within FRCC will provide for the development of a robust transmission network within the FRCC region.

Operating Committee (OC)

The OC functional scope is to provide for the reliable operations of the Bulk Power System in the FRCC region through coordination activities of operations and maintenance. The OC is responsible for the coordination, operations planning, operation and maintenance of the interconnected systems operating in the region. The OC's primary reliability goals include effective implementation of the *Reliability Process for the FRCC Bulk Electric System* document by all operators within the region.

FRCC shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions:

- (i). Separation of funding sources for statutory activities and non-statutory activities.

FRCC maintains separate accounts for statutory and non-statutory funding revenues.

(ii). Separation of costs of statutory activities and non-statutory activities. FRCC has adopted the NERC Chart of Accounts for Expenses and the NERC Rules of Procedure Categories as well as Member Services Functional Categories and utilizes these in order to correctly code each invoice received for all goods and services as well as for staff to specify where their time is spent each day for their time accounting reports. These methods are used to ensure that no statutory funds are used to pay for non-statutory expenses and that no non-statutory funds are used to pay for statutory expenses.

Each employee prepares a time sheet with their time accounted for between statutory and non-statutory functions that they personally spent their time on. Within statutory and non-statutory they further break down their time by the function areas. The monthly time accounting summarization of FTE by function is calculated using the time sheets that each employee is required to turn in to HR bi-weekly. The time sheet is reviewed by the departmental head and initialled bi-weekly.

Employees are categorized into 2 groups: Technical Employees – those employees who work directly on functions and have little or no administrative duties (examples would be the Compliance staff and the Engineers) and Non-Technical Staff – those employees who perform support functions that are 80% or greater nonspecific definable by function (examples would be the Accounting staff, the President, the receptionist, etc.). The time from the time sheets are entered into a macro (by employee and function worked on) for the corresponding month being accounted for. The FTE's by program are then calculated and used to allocate the total of the General & Administrative Department back to the program areas on the line "Miscellaneous."

FRCC uses standard cost accounting procedures to allocate general expenses (that cannot be directly assigned) to a specific function. The system used consists of directly expensing as much as possible directly to the function (whether that function is Statutory or Member Services) that incurred the expense. This is accomplished by routing to the responsible departmental heads all invoices pertaining to their job responsibility. The departmental head assigns the functional category and returns the invoice to accounting who assigns the General Ledger Account Number (as specified in the FRCC Accounting Policy Manual – Coding of Invoices for Goods and Services). If the expense cannot be directly charged to a particular function (example rent, payroll taxes, benefits, general office supplies, etc.), the expense is charged to holding accounts by chart of accounts line item to be allocated back to the program areas (to include General & Administrative) at the end of the month. This is done by using the monthly time accounting summarization of FTE by function. So there are two ways expenses are charged to a particular function, either by direct expense or by allocation from the results of the monthly time accounting summarization of FTE by function (including General & Administrative).

FRCC shall provide its budget for such non-statutory activities to NERC at the same time that FRCC submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. FRCC's budget for non-statutory

activities that is provided to NERC shall contain a detailed list of FRCC's non-statutory activities and a description of the funding sources for the non-statutory activities. FRCC agrees that no costs (which shall include a reasonable allocation of FRCC's general and administrative costs) of non-statutory activities are to be included in the calculation of FRCC's assessments, dues, fees, and other charges for its statutory activities.

The allocation of costs between FRCC's statutory and non-statutory functions is reviewed annually by an independent audit firm in connection with the preparation of the company's audited financial statements.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if FRCC determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, FRCC shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in FRCC's approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct FRCC to make such revisions as NERC deems appropriate prior to approval. NERC shall submit FRCC's approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Records

Upon a request made to FRCC with reasonable notice, NERC shall have access to and may review all financial records of FRCC, including records used to prepare FRCC's financial statements. NERC shall conduct reviews of the quarterly and annual financial statements submitted by FRCC pursuant to Section 9(h) and (i) of the Agreement. FRCC shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC.

**Attachment 3B: REDLINE – Revised Regional Delegation Agreement with
Florida Reliability Coordinating Council, Inc.**

REDLINE TO PRO FORMA RDA

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
~~AND [REGIONAL ENTITY]~~
AND FLORIDA RELIABILITY COORDINATING COUNCIL**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”)

Effective as of January 1, 2016, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and ~~[REGIONAL ENTITY]~~Florida Reliability Coordinating Council (“FRCC”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified in **Exhibit A** to this Agreement, and for other purposes. NERC and ~~[REGIONAL ENTITY]~~FRCC may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824o) (hereafter “the Act”), which, among other things, provides for the establishment of an Electric Reliability Organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the

delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as ~~[REGIONAL ENTITY]~~, FRCC, provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, ~~[REGIONAL ENTITY]~~ ~~[is/FRCC is not]~~ organized on an Interconnection-wide basis and therefore ~~[is/is not]~~ entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through ~~[REGIONAL ENTITY]~~ FRCC to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that ~~[REGIONAL ENTITY]~~ FRCC meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and ~~{REGIONAL ENTITY}~~FRCC, having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and ~~{REGIONAL ENTITY}~~FRCC agree as follows:

1. **Definitions.** The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) **Breach** means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) **Cross-Border Regional Entity** means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) **Delegated Authority** means the authority delegated by NERC to ~~{REGIONAL ENTITY}~~FRCC to propose and enforce Reliability Standards, consistent with Section 4(d) and the boundaries identified in **Exhibit A** pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. **Representations.**

(a) For purposes of its Delegated Authority, ~~{REGIONAL ENTITY}~~FRCC hereby represents and warrants to NERC that:

(i) ~~{REGIONAL ENTITY}~~FRCC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from

executing this Agreement and fulfilling its obligations hereunder. ~~[REGIONAL ENTITY]FRCC~~ is governed in accordance with its bylaws by ~~{select appropriate: an independent board/a balanced stakeholder board/a combination independent and balanced stakeholder board}~~. Pursuant to these bylaws, no two industry sectors can control any ~~[REGIONAL ENTITY]FRCC~~ decision and no single industry sector can veto any ~~[REGIONAL ENTITY]FRCC~~ decision. The relevant criteria for the establishment of such bylaws are attached hereto in **Exhibit B**. No other ~~[REGIONAL ENTITY]FRCC~~ corporate governance documents shall be inconsistent with the criteria in **Exhibit B**.

(ii) ~~[REGIONAL ENTITY]FRCC~~ has developed a standards development procedure, which provides the process that ~~[REGIONAL ENTITY]FRCC~~ may use to develop Regional Reliability Standards ~~[and Regional Variances, if the regional entity is organized on an Interconnection-wide basis]~~ that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, ~~[REGIONAL ENTITY]FRCC~~ has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within ~~[REGIONAL ENTITY]'sFRCC's~~ geographic boundaries as shown in **Exhibit A**.

(b) NERC hereby represents and warrants to ~~[REGIONAL ENTITY]FRCC~~ that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

(iii) NERC shall comply with its Certificate of Incorporation, Bylaws and Rules of Procedure, as from time to time adopted, approved or amended.

3. General Covenants.

(a) During the term of this Agreement, ~~[REGIONAL ENTITY]FRCC~~ shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC approval, which shall not be unreasonably withheld or

delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) ~~{REGIONAL ENTITY}FRCC~~ shall provide NERC with a copy of its Regional Entity Rules upon request by NERC.

(c) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of ~~{REGIONAL ENTITY}FRCC~~ under this Agreement without first obtaining the consent of ~~{REGIONAL ENTITY}FRCC~~, which consent shall not be unreasonably withheld or delayed.

(d) During the term of this Agreement, NERC and ~~{REGIONAL ENTITY}FRCC~~ shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

(e) For purposes of this Agreement, NERC shall collaborate with the Regional Entities in the development of guidance, policies and procedures, and oversight parameters as contemplated by this Agreement. In the event that collaboration is not successful on any such matter, the NERC President may issue a directive with respect to such matter pursuant to Section 8 herein, and such directive shall be binding upon ~~{REGIONAL ENTITY}FRCC~~.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of ~~{REGIONAL ENTITY}FRCC~~ in this Agreement, ~~{REGIONAL ENTITY}'s}FRCC's~~ corporate governance documents, ~~the {REGIONAL ENTITY}'s}FRCC~~ standards development process, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to ~~{REGIONAL ENTITY}FRCC~~ for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth in **Exhibit A**, provided, that ~~{REGIONAL ENTITY}FRCC~~ shall not monitor and enforce compliance with Reliability

Standards for ~~[REGIONAL ENTITY]FRCC~~ or an affiliated entity with respect to reliability functions for which ~~[REGIONAL ENTITY]FRCC~~ or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to ~~[REGIONAL ENTITY]FRCC~~ within, or additions to this delegation of authority to ~~[REGIONAL ENTITY]FRCC~~ beyond, the geographic boundaries set forth in **Exhibit A** are stated in **Exhibit A**.

(b) In circumstances where ~~[REGIONAL ENTITY]FRCC~~ or an affiliated entity is a Registered Entity, ~~[REGIONAL ENTITY]FRCC~~ shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce ~~[REGIONAL ENTITY]'sFRCC's~~ or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit ~~[REGIONAL ENTITY]FRCC~~ from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified in **Exhibit A** that is within the United States. Any delegation of authority by Applicable Governmental Authorities in Canada or Mexico shall be governed by the law of such authority or a separate agreement and is outside the scope of this Agreement; provided, however, that both ~~[REGIONAL ENTITY]FRCC~~ and NERC shall endeavor to ensure that this Agreement and any such separate agreement are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, ~~[REGIONAL ENTITY]FRCC~~ shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, ~~[REGIONAL ENTITY]FRCC~~ shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications

thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords ~~{REGIONAL ENTITY}FRCC~~ reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards ~~{and Regional Variances, if Regional Entity is organized on an Interconnection-wide basis}~~ through ~~{REGIONAL ENTITY}'sFRCC's~~ process. ~~{REGIONAL ENTITY}'sFRCC's~~ process shall be consistent with the NERC Rules of Procedure and Commission directives. Any changes to ~~{REGIONAL ENTITY}'sFRCC's~~ process shall be submitted to the NERC Board of Trustees for approval and upon approval, be submitted to the Commission for approval. Proposals approved through ~~{REGIONAL ENTITY}'sFRCC's~~ process shall be reviewed by the NERC Board of Trustees after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board of Trustees shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. ~~{REGIONAL ENTITY}FRCC~~ may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, ~~{REGIONAL ENTITY}FRCC~~ shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the boundaries set forth in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and ~~{REGIONAL ENTITY}FRCC~~ agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, inter alia, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. ~~{REGIONAL ENTITY}FRCC~~ may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, ~~{REGIONAL ENTITY}FRCC~~ agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board of Trustees or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) ~~{REGIONAL ENTITY}FRCC~~ shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual ERO Compliance Monitoring and Enforcement Program Implementation Plan.

(c) ~~{REGIONAL ENTITY}FRCC~~ shall report promptly to NERC information regarding noncompliance with a Reliability Standard, and its eventual disposition by ~~{REGIONAL ENTITY}FRCC~~, as set forth in, and subject to the confidentiality and disclosure provisions of, the NERC Rules of Procedure, the NERC Compliance Monitoring and Enforcement Program, this Agreement, compliance and enforcement program procedures and guidance that NERC may from time to time develop and the ERO Regulations. NERC shall promptly forward such report to the Commission, as required by the ERO Regulations, or as the Commission shall from time to time direct. NERC and ~~{REGIONAL ENTITY}FRCC~~ shall cooperate in filing such periodic summary reports and analyses as the Commission shall from time to time direct.

(d) All dispositions by ~~[REGIONAL ENTITY]FRCC~~ of noncompliance with Reliability Standards shall be reported to NERC for review. NERC shall develop and implement policies and procedures for the review and, where appropriate, approval of dispositions of noncompliance.

(e) As part of its compliance monitoring and enforcement program, ~~[REGIONAL ENTITY]FRCC~~ shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

~~(f) — [For Regional Entities with such agreements: [REGIONAL ENTITY] may also perform compliance monitoring and enforcement activities outside of the boundaries shown in Exhibit A, on behalf of a Regional Entity that is unable to perform such activities with respect to one or more registered entities within its footprint due to a conflict of interest. Such activities shall be performed pursuant to a contract between [REGIONAL ENTITY] and other such Regional Entity that is approved by both NERC and the Commission.]~~

7. Delegation-Related Activities.

NERC will engage ~~[REGIONAL ENTITY]FRCC~~ on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed in **Exhibit E**. NERC may from time to time develop policies or procedures, which shall be used by ~~[REGIONAL ENTITY]FRCC~~ in the performance of the delegation-related activities. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (g), each of which shall be considered a statutory activity:

(a) **Certification of Bulk-Power System Entities.** The NERC Board of Trustees shall set criteria for certification in accordance with the NERC Rules of Procedure. Certifications shall be issued in accordance with the NERC Rules of Procedure.

(b) **Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.**

(i) The NERC Board of Trustees shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by ~~REGIONAL ENTITY~~FRCC and other Regional Entities. ~~REGIONAL ENTITY~~FRCC shall provide timely and accurate information relating to registrations to NERC, as needed, to enable NERC to maintain a registration database that is accurate and up-to-date and to enable NERC to satisfy its monthly reporting obligation.

(iii) The NERC Board of Trustees Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board of Trustees Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) **Reliability Assessment and Performance Analysis.** ~~REGIONAL ENTITY~~FRCC shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. ~~REGIONAL ENTITY~~FRCC shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives, and policies and procedures related to data-gathering, quality control, forms, and reporting mechanisms that NERC may from time to time develop.

(d) **Event Analysis and Reliability Improvement.** ~~REGIONAL ENTITY~~FRCC shall conduct event analysis pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop. NERC and ~~REGIONAL ENTITY~~FRCC shall coordinate event analysis to support the effective and

efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, ~~{REGIONAL ENTITY}~~FRCC shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) **Training and Education.** ~~{REGIONAL ENTITY}~~FRCC may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) **Situation Awareness.** ~~{REGIONAL ENTITY}~~FRCC shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System.

(g) **Critical Infrastructure Security.** ~~{REGIONAL ENTITY}~~FRCC shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of ~~{REGIONAL ENTITY}~~'sFRCC's performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and ~~{REGIONAL ENTITY}~~FRCC that matters relating to NERC's oversight of ~~{REGIONAL ENTITY}~~'sFRCC's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and ~~{REGIONAL ENTITY}~~FRCC and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with ~~[REGIONAL ENTITY]FRCC~~ and other Regional Entities, performance goals, performance reports, measures and other parameters (including, without limiting the scope of such goals, financial performance goals), which shall be used to measure NERC's and ~~[REGIONAL ENTITY]'sFRCC's~~ performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. ~~[REGIONAL ENTITY]FRCC~~ shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate ~~[REGIONAL ENTITY]'sFRCC's~~ performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters, and performance reports to evaluate ~~[REGIONAL ENTITY]'sFRCC's~~ performance of its delegated functions and related activities and to provide advice and direction to ~~[REGIONAL ENTITY]FRCC~~ on performance improvements. The performance goals, measures and other parameters, and the values of such goals, measures and parameters, shall be reviewed by NERC, ~~[REGIONAL ENTITY]FRCC~~ and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, ~~[REGIONAL ENTITY]FRCC~~ shall be required to develop, submit for NERC approval, and implement action plans to address, areas of its performance that are reasonably determined by NERC, based on analysis of ~~[REGIONAL ENTITY]'sFRCC's~~ performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring ~~[REGIONAL ENTITY]FRCC~~ to adopt and implement an action plan or other remedial action, NERC shall issue a notice to ~~[REGIONAL ENTITY]FRCC~~ of the need and basis for an action plan or other remedial action and provide an opportunity for ~~[REGIONAL ENTITY]FRCC~~ to submit a written response contesting NERC's evaluation of ~~[REGIONAL ENTITY]'sFRCC's~~ performance and the need for an action plan. ~~[REGIONAL ENTITY]FRCC~~ may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board of Trustees review and reconsider the request. NERC and ~~[REGIONAL ENTITY]FRCC~~ shall work collaboratively as needed in the development and implementation of ~~[REGIONAL ENTITY]'sFRCC's~~ action plan. A final action plan submitted

by ~~{REGIONAL ENTITY}FRCC~~ to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to ~~{REGIONAL ENTITY}FRCC~~ standardized training and education programs, which shall be designed taking into account input from ~~{REGIONAL ENTITY}FRCC~~ and other Regional Entities, for ~~{REGIONAL ENTITY}FRCC~~ personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to ~~{REGIONAL ENTITY}FRCC~~ concerning the manner in which ~~{REGIONAL ENTITY}FRCC~~ shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered “directives.” NERC shall initiate the development of a directive through a collaborative process with ~~{REGIONAL ENTITY}FRCC~~ and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and ~~{REGIONAL ENTITY}FRCC~~ and, if applicable, other Regional Entities, are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, ~~{REGIONAL ENTITY}FRCC~~, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by ~~{REGIONAL ENTITY}FRCC~~, the NERC Board of Trustees (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without ~~{REGIONAL ENTITY}'sFRCC's~~ agreement, *provided*, that ~~{REGIONAL ENTITY}FRCC~~ shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and ~~{REGIONAL ENTITY}FRCC~~ and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to

paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that it is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board of Trustees (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which ~~[REGIONAL ENTITY]~~, FRCC, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The NERC Board of Trustees or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the NERC Board of Trustees or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. ~~[REGIONAL ENTITY]~~, FRCC, either individually or in conjunction with other Regional Entities, may request that the NERC Board of Trustees or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with ~~[REGIONAL ENTITY]~~, FRCC, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) NERC may perform reviews of ~~[REGIONAL ENTITY]~~, FRCC on a reasonable periodicity to determine ~~[REGIONAL ENTITY]~~'s FRCC's compliance with this Agreement, any policies or procedures established by NERC, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c) and to monitor the implementation of guidance and directions issued by the NERC Board of Trustees pursuant to Section 8(d). All such periodic reviews shall comply with the NERC Rules of Procedure and Commission directives.

(g) The Commission and the Commission staff shall have full access to action plans

and remedial actions, directives, and directions and guidance issued pursuant to subsections (a)(iii), (c)(iv) and (d), respectively, that are maintained as non-public.

9. **Funding.** ~~REGIONAL ENTITY~~FRCC and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) ~~REGIONAL ENTITY~~FRCC shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. ~~REGIONAL ENTITY~~'sFRCC's proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, ~~REGIONAL ENTITY~~FRCC to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E**. ~~REGIONAL ENTITY~~'sFRCC's business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) ~~REGIONAL ENTITY~~FRCC and NERC agree that the portion of ~~REGIONAL ENTITY~~'sFRCC's approved budget for the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by ~~REGIONAL ENTITY~~FRCC and approved by NERC and the Commission. If ~~REGIONAL ENTITY~~FRCC proposes to use a formula other than Net Energy for Load beginning in the following year, ~~REGIONAL ENTITY~~FRCC shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and ~~REGIONAL ENTITY~~FRCC to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide ~~{REGIONAL ENTITY}~~FRCC with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) ~~{REGIONAL ENTITY}~~FRCC shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E**, as well as for all other activities of ~~{REGIONAL ENTITY}~~FRCC, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund ~~{REGIONAL ENTITY}~~'sFRCC's performance of its Delegated Authority and related activities in accordance with ~~{REGIONAL ENTITY}~~'sFRCC's Commission-approved business plan and budget, in the amount of ~~{REGIONAL ENTITY}~~'sFRCC's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting ~~{REGIONAL ENTITY}~~'sFRCC's approved assessments from end users and other entities and payment of the approved assessment amount to ~~{REGIONAL ENTITY}~~FRCC, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon ~~{REGIONAL ENTITY}~~FRCC that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without ~~{REGIONAL ENTITY}~~'sFRCC's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare

each Commission-approved NERC and ~~{REGIONAL ENTITY}FRCC~~ fiscal year budget with the actual results at the NERC and Regional Entity levels. ~~{REGIONAL ENTITY}FRCC~~ shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) ~~{REGIONAL ENTITY}FRCC~~ shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) ~~{REGIONAL ENTITY}FRCC~~ shall submit audited financial statements annually, including supporting materials, in a form provided by NERC, by no later than the date reasonably required and designated in writing by NERC to enable NERC to assemble and file the required annual budget to actual true up filing with the Commission.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which ~~{REGIONAL ENTITY}FRCC~~ shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of ~~{REGIONAL ENTITY}FRCC~~) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which ~~{REGIONAL ENTITY}FRCC~~ shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of ~~{REGIONAL ENTITY}FRCC~~. *Provided*, that, subject to approval by NERC and the Commission, ~~{REGIONAL ENTITY}FRCC~~ may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. ~~{REGIONAL ENTITY}FRCC~~ may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit ~~{REGIONAL ENTITY}FRCC~~ from contracting with other entities to assist it in carrying out its Delegated Authority, provided

~~[REGIONAL ENTITY]~~FRCC retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the “Default Notice”). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on ~~[January 1, 2016]~~ (the “Effective Date”).

(b) The term of this Agreement shall commence on the Effective Date, and shall have an initial term of five years (the “Term”), ending on December 31, 2020. Thereafter, the Term shall automatically extend for one additional five-year term unless either Party shall provide written notice of termination of this Agreement to the other no later than one year prior to the then effective expiration of the Term. In such event, this Agreement shall terminate upon the expiration of then effective Term, unless otherwise mutually agreed to by the Parties.

(c) In the event of the termination of this Agreement, the Parties shall work to provide for a transition of ~~[REGIONAL ENTITY]~~'sFRCC's Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with

termination of this Agreement.

(d) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by ~~REGIONAL ENTITY~~FRCC and NERC.

(e) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. ~~REGIONAL ENTITY~~FRCC and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and ~~REGIONAL ENTITY~~FRCC shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of ~~REGIONAL ENTITY~~'sFRCC's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that ~~REGIONAL ENTITY~~FRCC or NERC is found liable for gross negligence or intentional misconduct, in which case ~~REGIONAL ENTITY~~FRCC or NERC shall not be liable for any indirect,

incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party, except as otherwise specifically provided herein and in Section 15(c).

15. Confidentiality.

(a) During the course of the Parties' performance under this Agreement, a Party may receive proprietary, business sensitive, or critical infrastructure information ("Confidential Information") necessary to fulfill its respective obligations in connection with this Agreement. The Parties agree that their mutual objective under this provision is to provide appropriate protection for Confidential Information, while maintaining the ability to conduct their respective business activities.

(b) No obligation of confidentiality shall apply to any information that the recipient: (i) already possesses without obligation of confidentiality; (ii) develops independently; or (iii) rightfully receives without any obligation of confidentiality from a third party.

(c) The Parties may transfer or exchange such Confidential Information with and between the other Regional Entities as third-party beneficiaries of the terms of this Agreement, provided the Parties and the other Regional Entities as third-party beneficiaries continue to maintain the confidentiality of such information.

(d) Except as set forth herein and within the NERC Rules of Procedure, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party or specified third-party beneficiary of this Agreement, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party or specified third-party beneficiary of this Agreement that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party or specified third-party beneficiary of this Agreement to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive

compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party or specified third-party beneficiary of this Agreement waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information.

(e) Each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein.

(f) This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement, nor does it prohibit permitted disclosures as set forth in the NERC Rules of Procedure.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of ~~{REGIONAL ENTITY}FRCC~~ under this Agreement without first obtaining the consent of ~~{REGIONAL ENTITY},FRCC~~, which consent shall not be unreasonably withheld or delayed. To the extent ~~{REGIONAL ENTITY}FRCC~~ does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of ~~{REGIONAL ENTITY}FRCC~~ under this Agreement, ~~{REGIONAL ENTITY}FRCC~~ shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by ~~{REGIONAL ENTITY}FRCC~~ to NERC and the Commission, or at such other time as may be mutually agreed by ~~{REGIONAL ENTITY}FRCC~~ and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and ~~[REGIONAL ENTITY]~~FRCC (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to ~~[REGIONAL ENTITY]'s~~FRCC's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. ~~[REGIONAL ENTITY]~~ FRCC shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, provided, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive

officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), provided, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. Provided, however, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. All notices, demands, requests, and other communications required, permitted by, or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand, email or overnight courier:

If to NERC:

North American Electric Reliability Corporation
1325 G Street NW, Suite 600
Washington, DC 20005
Attn: General Counsel
Email: legal@nerc.net

If to ~~[REGIONAL ENTITY]~~FRCC:

Florida Reliability Coordinating Council
3600 Bayport Drive
Suite 600
Tampa, Florida 33607
Attn: Morvarid M. Jones, General Counsel
Email: mjones@frcc.com

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of Georgia without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in Georgia. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in Georgia for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. Savings Clause. Nothing in this Agreement shall be construed to preempt or limit any authority that ~~[REGIONAL ENTITY]~~FRCC may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. **Entire Agreement.** This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. **Execution of Counterparts.** This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

~~[REGIONAL ENTITY]~~FLORIDA
RELIABILITY COORDINATING
COUNCIL

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A — ~~Regional~~FRCC Boundaries
(see attached map)

~~Exhibit A to the delegation agreement for each Regional Entity receiving Delegated Authority shall describe the geographic or electrical boundaries covered by the proposed delegation of authority. Exhibit A for each Regional Entity shall reflect coordination with neighboring Regional Entities, as appropriate, to ensure that all relevant areas are either included within the geographic boundaries of a Regional Entity or specifically identified as not being within the geographic boundaries of any Regional Entity. Any exclusions of geographic or electrical areas or of Registered Entities from the scope of the Regional Entity's Delegated Authority within the geographic or electrical boundaries shown in Exhibit A, and any additions of geographic or electrical areas or of Registered Entities located outside the boundaries shown in Exhibit A to the scope of the Regional Entity's Delegated Authority, shall be specifically stated or described in Exhibit A.~~

~~The physical boundaries of the Florida Reliability Coordinating Council, Inc. (FRCC) are entirely within the geographic boundaries of the State of Florida. The FRCC region is comprised of peninsular Florida east of the Apalachicola River with the exception of a small section of northeast Florida (Baker and Nassau counties). The FRCC region is within the Eastern Interconnection and is under the direction of the FRCC Reliability Coordinator.~~

~~The FRCC region interconnects with the SERC region via 12 transmission lines. The 12 lines consist of two 500 kV, four 230 kV and six 115 kV lines. These lines are referred to as the "Florida / Southern Interface".~~

~~The areas, noted above, in northeast Florida (part of Baker and Nassau counties) are served by Okefenoke Rural Electric Membership Corporation (OREMC), a member of the Georgia System Operations Corporation, and also include the Georgia Transmission Corporation (GTC) facilities physically located in Baker County, Florida. These areas are considered to be part of the SERC Reliability Corporation (SERC). SERC is responsible for registration and compliance monitoring of OREMC and the GTC facilities in Baker and Nassau Counties, Florida.~~

~~Within the FRCC region, compliance monitoring and enforcement functions with respect to reliability functions for which FRCC is a registered entity are performed by SERC pursuant to a contract between FRCC and SERC.~~

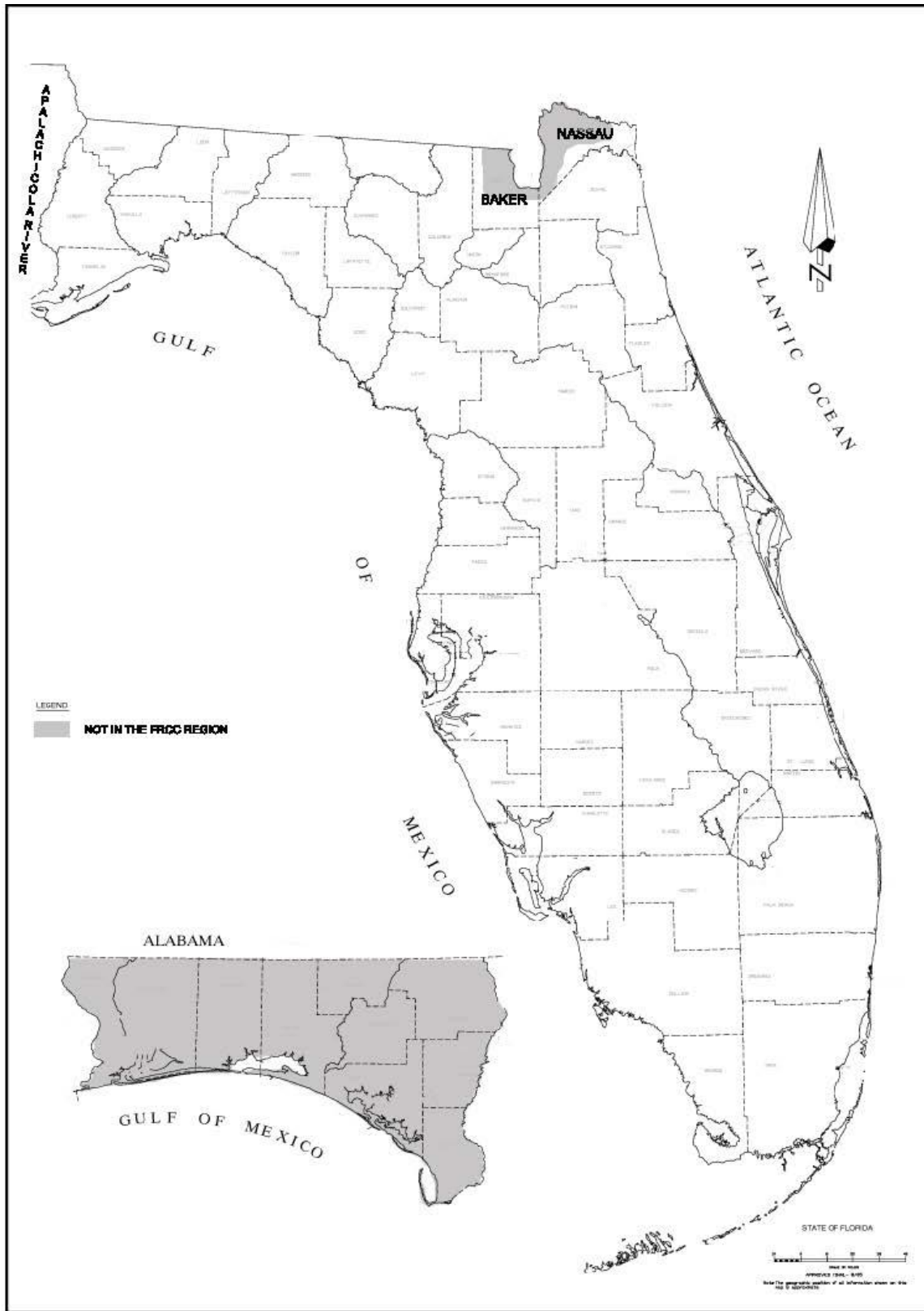


Exhibit B — Governance

The Regional Entity bylaws shall meet the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence from the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

Exhibit C [Intentionally left blank]

Exhibit D — Compliance Monitoring and Enforcement Program

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

~~[REGIONAL ENTITY]FRCC~~ will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within ~~[REGIONAL ENTITY]'sFRCC's~~ geographic or electrical boundaries, and such other scope, set forth in **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

~~[REGIONAL ENTITY]FRCC~~, to the extent required in the Rules of Procedure, shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be the FRCC Board Compliance Committee (BCC), a balanced compliance panel reporting directly to the FRCC Board of Directors.~~either [REGIONAL ENTITY]'s board, a committee of the board, a balanced compliance panel reporting directly to [REGIONAL ENTITY]'s board or an independent hearing panel. [REGIONAL ENTITY]'s hearing body is [its board] [if not the board, insert the name of the committee or group serving as the hearing body].~~

~~[If the hearing body is a compliance panel other than the board, provide here a description of how the members of the compliance panel are selected and the qualifications to be selected for the compliance panel.]~~

The BCC will consist of one (1) representative of a Voting Member from each of the six (6) sectors in FRCC, who shall be a member of the Board of Directors. Each year, two (2) Directors (including Alternate Directors) from each Sector, will volunteer to serve in a BCC pool. At the time a hearing request is received, the Chair of the FRCC Board of Directors will appoint one member from each Sector to form the BCC for that hearing. Once appointed to a hearing, a Director or Alternate Director shall serve throughout the hearing's duration. The Board Member from the Registered Entity that has requested the hearing will not be selected for that BCC. In the event one (1) Sector of FRCC declines to participate on the BCC, the Chair of the Board of Directors shall randomly select one (1) additional BCC member from the remaining five (5) Sectors to constitute the BCC. The Chair of the FRCC Board of Directors will appoint a Chair and Vice-Chair of the BCC. Terms of BCC members will be equivalent to the time it takes to complete the hearing for which they were selected. Members may be re-appointed to subsequent terms without any limits to the number of terms they serve.

FRCC Industry Sectors are as follows:

- One (1) Member from the Investor Owned Utility Sector
- One (1) Member from the Suppliers Sector

- One (1) Member from the Non-Investor Owned Utility Wholesale Sector
- One(1) Member from the Load Serving Entity Sector
- One (1) Member from the Generating Load Serving Entity Sector
- One (1) Member from the General Sector

Each member of the BCC shall be a full voting member. There will be no alternates or proxies for the BCC members. Decisions of the BCC shall require (i) a quorum to be present requiring at least fifty (50) percent of the number of members assigned to the BCC provided, however, that in each case at least four (4) eligible Sectors are represented and (ii) a majority vote of the members of the BCC voting on the decision.

To the extent required in the Rules of Procedure, ~~[REGIONAL ENTITY]FRCC~~ shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: ~~[Describe any deviations, or state "None." If there are deviations from the NERC pro-forma Hearing Procedures, [REGIONAL ENTITY]'s Hearing Procedures shall be included as a separate attachment to this Exhibit D.]None.~~

3.0 OTHER DECISION-MAKING BODIES

~~If [REGIONAL ENTITY] uses other decision-making bodies within its compliance program, provide here a description of the function of that body to the extent not described elsewhere in the Agreement or exhibits, how the members of that body are selected, and the qualifications to be selected for that body.] FRCC has engaged the SERC Reliability Corporation (SERC) to oversee the compliance monitoring and enforcement responsibility as related to FRCC's compliance with Reliability Standard requirements that are applicable to the functions for which FRCC is a Registered Entity.~~

Exhibit E — Funding

1. Scope of Activities Funded through the ERO Funding Mechanism

~~{Regional Entity}FRCC~~ shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and ~~{Regional Entity}FRCC~~, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of ~~{Regional Entity}'sFRCC's~~ business plan and budget. The annual schedule for the preparation of business plans and budgets shall require ~~{Regional Entity}FRCC~~ (i) to submit to NERC draft(s) of ~~{Regional Entity}'sFRCC's~~ proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by ~~{Regional Entity}FRCC~~ Board of Trustees to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of ~~{Regional Entity}'sFRCC's~~ business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The ~~{Regional Entity}FRCC~~ business plan and budget submission shall include supporting materials, including ~~{Regional Entity}'sFRCC's~~ complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. ~~{Regional Entity}'s FRCC's~~ business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve ~~{Regional Entity}'sFRCC's~~ proposed business plan and budget and proposed assessments for performing the delegated functions and

related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct ~~[Regional Entity]FRCC~~ to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~[Regional Entity]'sFRCC's~~ approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of ~~[REGIONAL ENTITY]'sFRCC's~~ delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. ~~[Regional Entity]FRCC~~ shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying ~~[Regional Entity]'sFRCC's~~ assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of ~~[Regional Entity]'sFRCC's~~ assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

~~{IF NERC WILL BILL AND COLLECT ASSESSMENTS DIRECTLY FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):}~~

(a) NERC shall submit invoices to the load-serving entities or designees identified by ~~[Regional Entity]FRCC~~ covering the NERC and ~~[Regional Entity]FRCC~~ assessments approved for collection.

~~{IF THE REGIONAL ENTITY WILL ACT AS THE BILLING AND COLLECTION AGENT ON BEHALF OF NERC TO BILL AND COLLECT ASSESSMENTS FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):}~~

~~(a) ——— NERC and [Regional Entity] agree that [Regional Entity] shall act as the billing and collection agent on behalf of NERC to bill and collect [Regional Entity]'s assessments from load-serving entities and designees (or such other entities as agreed by NERC and [Regional Entity]). [Regional Entity] agrees that it shall (i) issue all invoices to load-serving entities and other entities in a prompt and timely manner after receipt from NERC of the information needed to issue the invoices; (ii) exercise commercially reasonable efforts to collect invoices that are not paid as of the due date(s); and (iii) transfer all funds collected to NERC in a timely manner, as follows: Prior to the start of each calendar quarter, and once per week thereafter until all billings for the quarter are collected, [Regional Entity]~~

~~will electronically transfer to NERC, in immediately available funds, all payments received by [Regional Entity] from load-serving entities or other entities for payment of invoices. On the same day that [Regional Entity] makes each electronic transfer of funds to NERC, [Regional Entity] shall send an email to the Chief Financial Officer or Controller of NERC detailing the collections being transmitted, including a listing of the load-serving entities or other entities from which payments were collected and the amount collected from each entity. [Note: If NERC and Regional Entity have a different collection and payment arrangement, the preceding two sentences will be modified accordingly to describe it.]~~

~~[Regional Entity] agrees that it shall not in any way use its position as billing and collection agent for NERC to attempt to influence NERC's policies or decisions on matters relating to adoption of Reliability Standards (including Regional Reliability Standards and Regional Variances), administration of the compliance monitoring and enforcement program and other compliance and enforcement matters, determination and imposition of penalties and sanctions, budgeting matters including review and approval of [Regional Entity's] budgets and business plans, or any other NERC decisions, including by issuing invoices, engaging in collection activities or transferring funds collected to NERC in an untimely manner or other than in accordance with this Agreement.~~

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from Applicable Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, ~~[Regional Entity]~~FRCC shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, ~~[Regional Entity]~~FRCC is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within ~~[REGIONAL ENTITY]'s~~FRCC's region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within ~~[Regional Entity]'s~~FRCC's region.

(c) Upon approval by Applicable Governmental Authorities of ~~[Regional Entity]'s~~FRCC's annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay ~~[Regional Entity's]~~FRCC's annual assessment to ~~Regional Entity~~FRCC in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by ~~[Regional Entity]~~FRCC, other than penalty monies received from an operational function or division or affiliated entity of ~~[Regional Entity]~~FRCC, shall be applied as a general offset to ~~[Regional Entity]'s~~FRCC's budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of ~~[Regional Entity]~~FRCC shall be transmitted to or retained by

NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for ~~[Regional Entity's]~~FRCC's Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), ~~[Regional Entity]~~FRCC performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"): ~~[List and describe all non-statutory activities performed by Regional Entity, or state "None."]~~

Non-Statutory Activities

The FRCC Member Services (MS) Division provides services that enhance the reliable coordination of planning and operations relating to the bulk power system within the FRCC region. These services are carried out on behalf of FRCC MS members with oversight by two of the standing committees. The Planning Committee (PC) and Operating Committee (OC) and their various subcommittees, task forces and working groups, as well as the FRCC Planning and Operations (P&O) staff, support the MS activities of the region.

Planning Committee (PC)

The PC functional scope is to promote the reliability of the BES within the FRCC region by assessing and encouraging generation and transmission adequacy. The PC assesses generation adequacy by performing a reliability assessment taking into account projected load and resources. The PC, through the FRCC Regional Transmission Planning Process, provides a vehicle for ensuring that transmission planning within FRCC will provide for the development of a robust transmission network within the FRCC region.

Operating Committee (OC)

The OC functional scope is to provide for the reliable operations of the Bulk Power System in the FRCC region through coordination activities of operations and maintenance. The OC is responsible for the coordination, operations planning, operation and maintenance of the interconnected systems operating in the region. The OC's primary reliability goals include effective implementation of the *Reliability Process for the FRCC Bulk Electric System* document by all operators within the region.

~~[Regional Entity]~~FRCC shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions: ~~[List and describe the methods and procedures Regional Entity employs to keep costs and funding of statutory activities separate from costs and funding of non-statutory activities, including at a minimum a description of how Regional Entity's bank accounts and~~

~~receivables/payables procedures are set up for both statutory and non-statutory functions, a description of how Regional Entity ensures each employee involved in both statutory and non-statutory functions keeps accurate time records reflecting his/her activities, and a description of how Regional Entity's general and administrative costs are allocated between statutory activities and non-statutory activities. If the necessary descriptions are lengthy they may be provided in a separate attachment labeled "Attachment E-1", and state here "See Attachment E-1." If Regional Entity has listed no non-statutory functions in the preceding paragraph, state here "Not applicable."}]~~

(i). Separation of funding sources for statutory activities and non-statutory activities. FRCC maintains separate accounts for statutory and non-statutory funding revenues.

(ii). Separation of costs of statutory activities and non-statutory activities. FRCC has adopted the NERC Chart of Accounts for Expenses and the NERC Rules of Procedure Categories as well as Member Services Functional Categories and utilizes these in order to correctly code each invoice received for all goods and services as well as for staff to specify where their time is spent each day for their time accounting reports. These methods are used to ensure that no statutory funds are used to pay for non-statutory expenses and that no non-statutory funds are used to pay for statutory expenses.

Each employee prepares a time sheet with their time accounted for between statutory and non-statutory functions that they personally spent their time on. Within statutory and non-statutory they further break down their time by the function areas. The monthly time accounting summarization of FTE by function is calculated using the time sheets that each employee is required to turn in to HR bi-weekly. The time sheet is reviewed by the departmental head and initialled bi-weekly.

Employees are categorized into 2 groups: Technical Employees – those employees who work directly on functions and have little or no administrative duties (examples would be the Compliance staff and the Engineers) and Non-Technical Staff – those employees who perform support functions that are 80% or greater nonspecific definable by function (examples would be the Accounting staff, the President, the receptionist, etc.). The time from the time sheets are entered into a macro (by employee and function worked on) for the corresponding month being accounted for. The FTE's by program are then calculated and used to allocate the total of the General & Administrative Department back to the program areas on the line "Miscellaneous."

FRCC uses standard cost accounting procedures to allocate general expenses (that cannot be directly assigned) to a specific function. The system used consists of directly expensing as much as possible directly to the function (whether that function is Statutory or Member Services) that incurred the expense. This is accomplished by routing to the responsible departmental heads all invoices pertaining to their job responsibility. The departmental head assigns the functional category and returns the invoice to accounting who assigns the General Ledger Account Number (as specified in the FRCC Accounting Policy Manual – Coding of Invoices for Goods and Services). If the expense cannot be directly charged to a particular function (example rent, payroll taxes, benefits, general

office supplies, etc.), the expense is charged to holding accounts by chart of accounts line item to be allocated back to the program areas (to include General & Administrative) at the end of the month. This is done by using the monthly time accounting summarization of FTE by function. So there are two ways expenses are charged to a particular function, either by direct expense or by allocation from the results of the monthly time accounting summarization of FTE by function (including General & Administrative).

~~{Regional Entity}FRCC~~ shall provide its budget for such non-statutory activities to NERC at the same time that ~~{Regional Entity}FRCC~~ submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. ~~{Regional Entity's}FRCC's~~ budget for non-statutory activities that is provided to NERC shall contain a detailed list of ~~{Regional Entity's}FRCC's~~ non-statutory activities and a description of the funding sources for the non-statutory activities. ~~{Regional Entity}FRCC~~ agrees that no costs (which shall include a reasonable allocation of ~~{Regional-Entity's}FRCC's~~ general and administrative costs) of non-statutory activities are to be included in the calculation of ~~{Regional Entity's}FRCC's~~ assessments, dues, fees, and other charges for its statutory activities.

The allocation of costs between FRCC's statutory and non-statutory functions is reviewed annually by an independent audit firm in connection with the preparation of the company's audited financial statements.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if ~~{Regional Entity}FRCC~~ determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, ~~{Regional Entity}FRCC~~ shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in ~~{Regional Entity's}FRCC's~~ approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct ~~{Regional Entity}FRCC~~ to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~{Regional Entity's}FRCC's~~ approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Records

Upon a request made to ~~{Regional Entity}FRCC~~ with reasonable notice, NERC shall have access to and may review all financial records of ~~{Regional Entity},FRCC~~, including records used to prepare ~~{Regional Entity's}FRCC's~~ financial statements. NERC shall conduct reviews of the quarterly and annual financial statements submitted by ~~{Regional-Entity}FRCC~~ pursuant to Section 9(h) and (i) of the Agreement. ~~{Regional Entity}FRCC~~ shall provide supporting documentation for the quarterly and annual financial statements as

reasonably requested by NERC.

**Attachment 3C: REDLINE – Revised Exhibit E to Regional Delegation
Agreement with Florida Reliability Coordinating Council, Inc.**

Exhibit E — Funding

1. Scope of ~~activities~~ Activities funded ~~Funded~~ through the ERO ~~funding~~ Funding mechanism Mechanism

FRCC shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and FRCC, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of ~~[Regional Entity's]~~ FRCC's business plan and budget. The annual schedule for the preparation of business plans and budgets shall require FRCC (i) to submit to NERC draft(s) of FRCC's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by FRCC Board of Trustees to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of FRCC's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The FRCC business plan and budget submission shall include supporting materials, including FRCC's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. FRCC's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve FRCC's proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or

shall direct FRCC to make such revisions as NERC deems appropriate prior to approval. NERC shall submit FRCC's approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of FRCC's delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. FRCC shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying ~~[Regional Entity's]~~FRCC's assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of ~~[Regional Entity's]~~FRCC's assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

(a) NERC shall submit invoices to the load-serving entities or designees identified by FRCC covering the NERC and FRCC assessments approved for collection.

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from ~~EROApplicable~~ Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, FRCC shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, FRCC is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within FRCC's region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within FRCC's region.

(c) Upon approval by ~~EROApplicable~~ Governmental Authorities of FRCC's annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay FRCC's annual assessment to FRCC in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by FRCC, other than penalty monies received from an operational function or division or affiliated entity of FRCC, shall be applied as a general offset to FRCC's budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial

penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of FRCC shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for FRCC's Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this Exhibit E (such delegated functions and activities referred to in this Section 6 as "statutory activities"), FRCC performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"):

Non-Statutory Activities

The ~~FRCC Member Services division of the FRCC (MS) Division~~ provides ~~,-coordinates or administers a variety of services relating to~~ that enhance the reliable coordination of planning and ~~operation of operations relating to~~ the bulk power system ~~in~~within the FRCC ~~Region~~region. These services are carried out on behalf of FRCC MS members with oversight by two of the FRCC standing committees. The Planning Committee (PC) and ~~the FRCC Operating Committee (OC),~~ and ~~its~~their various subcommittees, task forces and working groups, as well as the FRCC Planning and Operations (P&O) staff, support the MS activities of the region.

Planning Committee (PC)

The PC ~~promotes~~functional scope is to promote the reliability of the ~~bulk power system in BES~~ within the FRCC ~~Region~~region by assessing and ~~assesses and encourages~~encouraging generation and transmission adequacy. The PC assesses generation adequacy by performing a reliability assessment taking into account projected load and resources. The PC, through the FRCC Regional Transmission Planning Process, provides a vehicle for ensuring that transmission planning within ~~the~~ FRCC will provide for the development of a robust transmission network within the FRCC ~~Region~~region.

~~The activities of the PC include the activities of the following Member Services working groups: the Stability Working Group, the Transmission Working Group, the Resources Working Group, the ATC Working Group and the Fuel Reliability Working Group. The activities of these working groups pertain to the facilitated and coordinated effort for the running of engineering studies and communications in a cost-effective, open and transparent manner for the members to complete common tasks to ensure future bulk power reliability. This includes any transmission planning that allows transmission owners to meet FERC's Order 890 requirement for wide area planning and implementation of data and reporting to the Florida Public Service Commission on resource adequacy and transmission reliability.~~

Operating Committee (OC)

The OC functional scope is to provide for the reliable operations of the Bulk Power System in the FRCC region through coordination activities of operations and maintenance. The OC is responsible for the coordination, operations planning, operation and maintenance of reliable bulk power supply in the FRCC. Its the interconnected systems operating in the region. The OC's primary reliability goals include effective implementation of the *Reliability Process for the FRCC Bulk Electric System* document by all operators within the region. are the continuous improvement of the situational awareness of the operators interconnected within the FRCC, and ensuring that adequate physical, operational and cyber security objectives are in place for the Region's shared communications network. The OC ensures reliable operations are maintained through the development and implementation of the Reliability Process for the FRCC Bulk Electric System, formerly the FRCC Security Process.

Operating Reliability Subcommittee (ORS)

The ORS provides overall administration for the development and implementation of operating procedures and other reliability matters. The ORS reviews and assesses regional import and export limits, scheduled transmission outages, real time system reliability, events analysis, information and data exchange and other reliability issues. The ORS provides formal oversight and implementation of the Reliability Process for the FRCC Bulk Electric System, formerly the FRCC Security Process, which establishes the reliability responsibilities of the various entities within the Region and specifically monitors the agents responsible for performing the Reliability Coordinator and Operations Planning Coordinator functions.

Data Exchange Working Group (DEWG)

The DEWG, subordinate to the ORS, supports the real time data needs of the FRCC Reliability Coordinator and other entities identified by the FRCC ORS, and for developing methodologies to facilitate the exchange of real time, modeling, and other operational data to help assure reliable electric power system operations. Within the FRCC, all entities provide system data via the FRCC Reliability Data Link (RDL). The FRCC RDL receives all substation topology information, line flows, voltage levels, unit parameters, etc. from the operating entities on a real time basis. Data is available to all.

FRCC Telecommunications Subcommittee (TS)

The TS provides formal oversight over the TS budget which is included in the OC budget. The primary purpose of the TS is to ensure that adequate and redundant communications facilities are made available to the operating entities within the FRCC. The TS administers the FRCC hotline program, Satellite phone program, RDL program and also ensures that reliable and redundant communications are maintained with NERCNet, from a Regional communications perspective. All TS programs are in support of the RC function and are therefore non-statutory, with the exception of the FRCC satellite phone program which is a tool used by the Regional Entity to perform situational awareness and thus is budgeted as

statutory.

~~Non Statutory Situation Awareness and Infrastructure Security Program~~

~~This program maintains and enhances the situational awareness of the operators of the interconnected system by supporting the tools necessary to efficiently communicate Electricity Sector Information Sharing and Analysis Center information within and outside of the FRCC Region. The program also ensures that the FRCC entity shared communications networks, include the appropriate physical, operational, and cyber security protections in order to function reliably.~~

FRCC shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions:

~~(i). Separation of funding sources for statutory activities and non-statutory activities. The FRCC maintains a separate bank account for Statutory receivable collection. The statutory billing is done at the beginning of each quarter and an invoice is rendered to NERC only for the statutory receivable. NERC wires monies due directly into the Statutory bank account. All non-statutory receivables are deposited into a separate bank account. Member Services invoices are rendered to each member quarterly and deposited into this separate account. FRCC maintains separate accounts for statutory and non-statutory funding revenues.~~

(ii). Separation of costs of statutory activities and non-statutory activities. FRCC has adopted the NERC Chart of Accounts for Expenses and the NERC Rules of Procedure Categories as well as Member Services Functional Categories and utilizes these in order to correctly code each invoice received for all goods and services as well as for staff to specify where their time is spent each day for their time accounting reports. These methods are used to ensure that no statutory funds are used to pay for non-statutory expenses and that no non-statutory funds are used to pay for statutory expenses.

~~Each employee and officer (with the exception of the President and CEO) turns in prepares a time sheet with their time accounted for between statutory and non-statutory functions that they personally spent their time on. Within statutory and non-statutory they further break down their time by the function areas. The monthly time accounting summarization of FTE by function is calculated using the time sheets that each employee is required to turn in to HR bi-weekly. The time sheet is reviewed by the departmental head and initialled bi-weekly. Each employee and officer fills out their time sheet daily and turns them in every two weeks to the Controller. The employees use the department codes to split their time according to what they did that day. These times are totaled by the Controller and Full-Time Equivalent (FTE's) for each function are calculated.~~

Employees are categorized into 2 groups: Technical Employees – those employees who work directly on functions and have little or no administrative duties (examples would be

the Compliance staff and the Engineers) and Non-Technical Staff – those employees who perform support functions that are 80% or greater nonspecific definable by function (examples would be the Accounting staff, the President, the receptionist, etc.). The time from the time sheets are entered into a macro (by employee and function worked on) for the corresponding month being accounted for. The FTE's by program are then calculated and used to allocate the total of the General & Administrative Department back to the program areas on the line "Miscellaneous."

FRCC uses standard cost accounting procedures to allocate general expenses (that cannot be directly assigned) to a specific function. The system used consists of directly expensing as much as possible directly to the function (whether that function is Statutory or Member Services) that incurred the expense. Accounting personnel This is accomplished by route-routing to the responsible departmental heads all invoices pertaining to their job responsibility. The departmental head assigns the functional category, signs the invoices and returns it the invoice to accounting who for payment processing. The accounting staff evaluates and assigns the appropriate General Ledger account Account number Number (as specified in the FRCC Accounting Policy Manual – Coding of Invoices for Goods and Services), based on the Chart of Accounts and enters both the account number and the department number on the accounts payable system. Expenses such as Facilities Rent, stationary, utilities and other items of a general nature are split to each of the functions based on FTE's, on a monthly basis. Only expenses that cannot be determined to be specifically for a particular function are split on an allocated basis. Any expenses received that are for a particular function within a particular area are charged directly to that area and are not split. If the expense cannot be directly charged to a particular function (example rent, payroll taxes, benefits, general office supplies, etc.), the expense is charged to holding accounts by chart of accounts line item to be allocated back to the program areas (to include General & Administrative) at the end of the month. This is done by using the monthly time accounting summarization of FTE by function. So there are two ways expenses are charged to a particular function, either by direct expense or by allocation from the results of the monthly time accounting summarization of FTE by function (including General & Administrative).

FRCC shall provide its budget for such non-statutory activities to NERC at the same time that FRCC submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. FRCC's budget for non-statutory activities that is provided to NERC shall contain a detailed list of FRCC's non-statutory activities and a description of the funding sources for the non-statutory activities. FRCC agrees that no costs (which shall include a reasonable allocation of FRCC's general and administrative costs) of non-statutory activities are to be included in the calculation of FRCC's assessments, dues, fees, and other charges for its statutory activities.

The allocation of costs between FRCC's statutory and non-statutory functions is reviewed annually by an independent audit firm in connection with the preparation of the company's audited financial statements.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if FRCC determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, FRCC shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in FRCC's approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct FRCC to make such revisions as NERC deems appropriate prior to approval. NERC shall submit FRCC's approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Records

Upon a request made to FRCC with reasonable notice, NERC shall have access to and may review all financial records of FRCC, including records used to prepare FRCC's financial statements. NERC shall conduct reviews of the quarterly and annual financial statements submitted by FRCC pursuant to Section 9(h) and (i) of the Agreement. FRCC shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC.

**Attachment 4A: CLEAN – Revised Regional Delegation Agreement with
Midwest Reliability Organization**

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
AND MIDWEST RELIABILITY ORGANIZATION**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”)

Effective as of January 1, 2016, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and Midwest Reliability Organization, Inc. (“MRO”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified in **Exhibit A** to this Agreement, and for other purposes. NERC and MRO may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824o) (hereafter “the Act”), which, among other things, provides for the establishment of an Electric Reliability Organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional

entities (“Regional Entities”) such as MRO, provided that:

- (A) The Regional Entity is governed by —
 - (i) an independent board;
 - (ii) a balanced stakeholder board; or
 - (iii) a combination independent and balanced stakeholder board.
- (B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2)

of the Act; and

- (C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, MRO is not organized on an Interconnection-wide basis and therefore is not entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through MRO to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that MRO meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and MRO, having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate

the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and MRO agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to MRO to propose and enforce Reliability Standards, consistent with Section 4(d) and the boundaries identified in **Exhibit A** pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. Representations.

(a) For purposes of its Delegated Authority, MRO hereby represents and warrants to NERC that:

(i) MRO is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. MRO is governed in accordance with its bylaws by a combination independent and balanced stakeholder board. Pursuant to these bylaws, no two

industry sectors can control any MRO decision and no single industry sector can veto any MRO decision. The relevant criteria for the establishment of such bylaws are attached hereto in **Exhibit B**. No other MRO corporate governance documents shall be inconsistent with the criteria in **Exhibit B**.

(ii) MRO has developed a standards development procedure, which provides the process that MRO may use to develop Regional Reliability Standards that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, MRO has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within MRO's geographic boundaries as shown in **Exhibit A**.

(b) NERC hereby represents and warrants to MRO that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

(iii) NERC shall comply with its Certificate of Incorporation, Bylaws and Rules of Procedure, as from time to time adopted, approved or amended.

3. General Covenants.

(a) During the term of this Agreement, MRO shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) MRO shall provide NERC with a copy of its Regional Entity Rules upon request by NERC.

(c) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of MRO under this Agreement without first obtaining the consent of MRO, which consent shall not be unreasonably withheld or delayed.

(d) During the term of this Agreement, NERC and MRO shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

(e) For purposes of this Agreement, NERC shall collaborate with the Regional Entities in the development of guidance, policies and procedures, and oversight parameters as contemplated by this Agreement. In the event that collaboration is not successful on any such matter, the NERC President may issue a directive with respect to such matter pursuant to Section 8 herein, and such directive shall be binding upon MRO.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of MRO in this Agreement, MRO's corporate governance documents, MRO's standards development process, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to MRO for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth in **Exhibit A**. Any exclusions from this delegation of authority to MRO within, or additions to this delegation of authority to MRO beyond, the geographic boundaries set forth in **Exhibit A** are stated in **Exhibit A**.

(b) [This subsection intentionally left blank].

(c) Nothing in this Agreement shall prohibit MRO from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified in **Exhibit A** that is within the United States. Any delegation of authority by Applicable Governmental Authorities in Canada or Mexico shall be governed by the law of such authority or a separate agreement and is outside the scope of this Agreement; provided, however, that both MRO and NERC shall endeavor to ensure that this Agreement and any such separate agreement are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, MRO shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, MRO shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords MRO reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards through MRO's process. MRO's process shall be consistent with the NERC Rules of Procedure and Commission directives. Any changes to MRO's process shall be submitted to the NERC Board of Trustees for approval and upon approval, be submitted to the Commission for approval. Proposals approved through MRO's process shall be reviewed by the NERC Board of Trustees after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board of Trustees shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. MRO may

appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, MRO shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the boundaries set forth in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and MRO agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, inter alia, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. MRO may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, MRO agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board of Trustees or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) MRO shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual ERO Compliance Monitoring and Enforcement

Program Implementation Plan.

(c) MRO shall report promptly to NERC information regarding noncompliance with a Reliability Standard, and its eventual disposition by MRO, as set forth in, and subject to the confidentiality and disclosure provisions of, the NERC Rules of Procedure, the NERC Compliance Monitoring and Enforcement Program, this Agreement, compliance and enforcement program procedures and guidance that NERC may from time to time develop and the ERO Regulations. NERC shall promptly forward such report to the Commission, as required by the ERO Regulations, or as the Commission shall from time to time direct. NERC and MRO shall cooperate in filing such periodic summary reports and analyses as the Commission shall from time to time direct.

(d) All dispositions by MRO of noncompliance with Reliability Standards shall be reported to NERC for review. NERC shall develop and implement policies and procedures for the review and, where appropriate, approval of dispositions of noncompliance.

(e) As part of its compliance monitoring and enforcement program, MRO shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

7. Delegation-Related Activities.

NERC will engage MRO on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed in **Exhibit E**. NERC may from time to time develop policies or procedures, which shall be used by MRO in the performance of the delegation-related activities. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (g), each of which shall be considered a statutory activity:

(a) **Certification of Bulk-Power System Entities.** The NERC Board of Trustees

shall set criteria for certification in accordance with the NERC Rules of Procedure. Certifications shall be issued in accordance with the NERC Rules of Procedure.

(b) Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.

(i) The NERC Board of Trustees shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by MRO and other Regional Entities. MRO shall provide timely and accurate information relating to registrations to NERC, as needed, to enable NERC to maintain a registration database that is accurate and up-to-date and to enable NERC to satisfy its monthly reporting obligation.

(iii) The NERC Board of Trustees Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board of Trustees Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) Reliability Assessment and Performance Analysis. MRO shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. MRO shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives, and policies and procedures related to data-gathering, quality control, forms, and reporting mechanisms that NERC may from time to time develop.

(d) Event Analysis and Reliability Improvement. MRO shall conduct event

analysis pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop. NERC and MRO shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, MRO shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) **Training and Education.** MRO may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) **Situation Awareness.** MRO shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System.

(g) **Critical Infrastructure Security.** MRO shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of MRO's performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and MRO that matters relating to NERC's oversight of MRO's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and MRO and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with MRO and other Regional

Entities, performance goals, performance reports, measures and other parameters (including, without limiting the scope of such goals, financial performance goals), which shall be used to measure NERC's and MRO's performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. MRO shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate MRO's performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters, and performance reports to evaluate MRO's performance of its delegated functions and related activities and to provide advice and direction to MRO on performance improvements. The performance goals, measures and other parameters, and the values of such goals, measures and parameters, shall be reviewed by NERC, MRO and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, MRO shall be required to develop, submit for NERC approval, and implement action plans to address, areas of its performance that are reasonably determined by NERC, based on analysis of MRO's performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring MRO to adopt and implement an action plan or other remedial action, NERC shall issue a notice to MRO of the need and basis for an action plan or other remedial action and provide an opportunity for MRO to submit a written response contesting NERC's evaluation of MRO's performance and the need for an action plan. MRO may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board of Trustees review and reconsider the request. NERC and MRO shall work collaboratively as needed in the development and implementation of MRO's action plan. A final action plan submitted by MRO to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to MRO standardized training and education programs, which shall be designed taking into account input from MRO and other Regional

Entities, for MRO personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to MRO concerning the manner in which MRO shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered “directives.” NERC shall initiate the development of a directive through a collaborative process with MRO and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and MRO and, if applicable, other Regional Entities, are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, MRO, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by MRO, the NERC Board of Trustees (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without MRO’s agreement, *provided*, that MRO shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and MRO and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that it is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board of Trustees (or a Board committee to which the Board has delegated authority) may issue

guidance or directions as to the manner in which MRO, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The NERC Board of Trustees or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the NERC Board of Trustees or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. MRO, either individually or in conjunction with other Regional Entities, may request that the NERC Board of Trustees or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with MRO, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) NERC may perform reviews of MRO on a reasonable periodicity to determine MRO's compliance with this Agreement, any policies or procedures established by NERC, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c) and to monitor the implementation of guidance and directions issued by the NERC Board of Trustees pursuant to Section 8(d). All such periodic reviews shall comply with the NERC Rules of Procedure and Commission directives.

(g) The Commission and Commission staff shall have full access to action plans and remedial actions, directives, and directions and guidance issued pursuant to subsections (a)(iii), (c)(iv) and (d), respectively, that are maintained as non-public.

9. Funding. MRO and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) MRO shall develop, through a collaborative process with NERC, and propose, an

annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. MRO's proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, MRO to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E**. MRO's business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) MRO and NERC agree that the portion of MRO's approved budget for the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by MRO and approved by NERC and the Commission. If MRO proposes to use a formula other than Net Energy for Load beginning in the following year, MRO shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and MRO to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equity requirement.

(d) NERC shall provide MRO with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) MRO shall submit its proposed annual business plan and budget for carrying out

its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E**, as well as for all other activities of MRO, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund MRO's performance of its Delegated Authority and related activities in accordance with MRO's Commission- approved business plan and budget, in the amount of MRO's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting MRO's approved assessments from end users and other entities and payment of the approved assessment amount to MRO, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon MRO that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without MRO's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and MRO fiscal year budget with the actual results at the NERC and Regional Entity levels. MRO shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) MRO shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) MRO shall submit audited financial statements annually, including supporting materials, in a form provided by NERC, by no later than the date reasonably required and designated in writing by NERC to enable NERC to assemble and file the required annual budget to actual true up filing with the Commission.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which MRO shall

offset penalty monies it receives against its next year's annual budget for carrying out functions under this Agreement. *Provided*, that, subject to approval by NERC and the Commission, MRO may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. MRO may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit MRO from contracting with other entities to assist it in carrying out its Delegated Authority, provided MRO retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on January 1, 2016 (the “Effective Date”).

(b) The term of this Agreement shall commence on the Effective Date, and shall have initial term of five years (the “Term”), ending on December 31, 2020. Thereafter, the Term shall automatically extend for one additional five-year term unless either Party shall provide written notice of termination of this Agreement to the other no later than one year prior to the then effective expiration of the Term. In such event, this Agreement shall terminate upon the expiration of then effective Term, unless otherwise mutually agreed to by the Parties.

(c) In the event of the termination of this Agreement, the Parties shall work to provide for a transition of MRO’s Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement.

(d) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by MRO and NERC.

(e) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. MRO and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or

omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and MRO shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of MRO's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that MRO or NERC is found liable for gross negligence or intentional misconduct, in which case MRO or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party, except as otherwise specifically provided herein and in Section 15(c).

15. Confidentiality.

(a) During the course of the Parties' performance under this Agreement, a Party may receive proprietary, business sensitive, or critical infrastructure information ("Confidential Information") necessary to fulfill its respective obligations in connection with this Agreement. The Parties agree that their mutual objective under this provision is to provide appropriate protection for Confidential Information, while maintaining the ability to conduct their respective business activities.

(b) No obligation of confidentiality shall apply to any information that the recipient: (i) already possesses without obligation of confidentiality; (ii) develops independently; or (iii) rightfully receives without any obligation of confidentiality from a third party.

(c) The Parties may transfer or exchange such Confidential Information with and between the other Regional Entities as third-party beneficiaries of the terms of this Agreement, provided the Parties and the other Regional Entities as third-party beneficiaries continue to maintain the confidentiality of such information.

(d) Except as set forth herein and within the NERC Rules of Procedure, the Parties

agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party or specified third-party beneficiary of this Agreement, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party or specified third-party beneficiary of this Agreement that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party or specified third-party beneficiary of this Agreement to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party or specified third-party beneficiary of this Agreement waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information.

(e) Each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein.

(f) This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement, nor does it prohibit permitted disclosures as set forth in the NERC Rules of Procedure.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of MRO under this Agreement without first obtaining the consent of MRO, which consent shall not be unreasonably withheld or delayed. To the extent MRO does not consent, NERC shall have the

right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of MRO under this Agreement, MRO shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by MRO to NERC and the Commission, or at such other time as may be mutually agreed by MRO and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and MRO (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to MRO's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. MRO shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20)

business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, provided, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), provided, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. Provided, however, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. All notices, demands, requests, and other communications required, permitted by, or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand, email or overnight courier:

If to NERC:

North American Electric Reliability
Corporation
1325 G Street NW, Suite 600
Washington, DC 20005
Attn: General Counsel
Email: legal@nerc.net

If to MRO:

Midwest Reliability Organization
380 St. Peter Street
Suite 800
St. Paul, Minnesota 55102
Attn: General Counsel
Email: generalcounsel@midwestreliability.org

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of Georgia without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in Georgia. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in Georgia for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. Savings Clause. Nothing in this Agreement shall be construed to preempt or limit any authority that MRO may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and

do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. Entire Agreement. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. Execution of Counterparts. This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

MIDWEST RELIABILITY
ORGANIZATION, INC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A — Regional Boundaries

MRO is one of eight regional entities that comprise the North American Electric Reliability Corporation (NERC). MRO is a not for profit entity committed to safeguarding and improving reliability of the Bulk Power System in the upper Midwest part of North America and the Canadian provinces of Manitoba and Saskatchewan. The Midwest Reliability Organization region supplies approximately 270,000,000 megawatt-hours to more than twenty million people and covers roughly one million square miles.

There are several Regional Transmission Organizations that overlap MRO and other Regional Entity footprints. MRO coordinates its delegated responsibilities with these neighboring Regional Entities to avoid duplicity and ensure consistency and accuracy. MRO does not have affiliates and does not perform any reliability functions that would result in a conflict or inability to perform the delegated responsibilities of this Agreement.

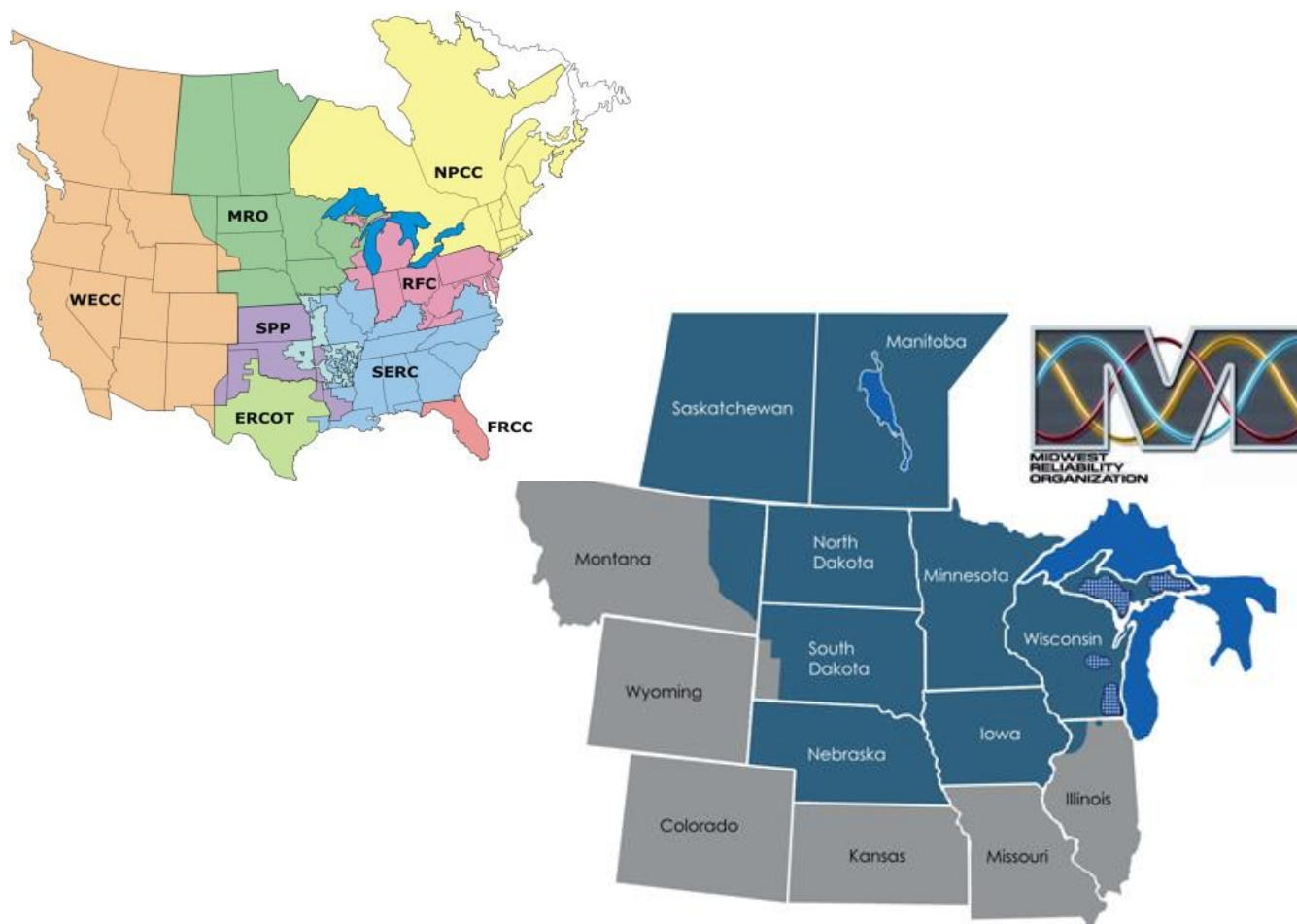


Exhibit B — Governance

The Regional Entity bylaws shall meet the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence from the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

Exhibit C [Intentionally left blank]

Exhibit D — Compliance Monitoring and Enforcement Program

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

Midwest Reliability Organization (“MRO”) will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within **MRO’s** geographic or electrical boundaries, and such other scope, set forth in **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

MRO, to the extent required in the Rules of Procedure, shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be either **MRO’s** board, a committee of the board, a balanced compliance panel reporting directly to **MRO’s** board or an independent hearing panel. **MRO’s** hearing body is a balanced subset of its board that is appointed by the board with no more than one member from each sector.

To the extent required in the Rules of Procedure, **MRO** shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: **NONE**.

3.0 OTHER DECISION-MAKING BODIES

A presiding officer who presides over the reception of evidence may prepare recommendations to be used by the board of directors in preparing its decision in a compliance hearing. In addition to compliance hearings, **MRO’s** Hearing Body also reviews and approves settlements in a yes or no fashion, but is not permitted to make modifications to negotiated settlements/agreements.

Exhibit E — Funding

1. Scope of Activities Funded through the ERO Funding Mechanism

Midwest Reliability Organization (“MRO”) shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and MRO, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of MRO’s business plan and budget. The annual schedule for the preparation of business plans and budgets shall require MRO (i) to submit to NERC draft(s) of MRO’s proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by MRO Board of Trustees to NERC by July 1 or such other agreed date as provides sufficient time for NERC’s review, approval and submission of MRO’s business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The MRO business plan and budget submission shall include supporting materials, including MRO’s complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. MRO’s business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve MRO’s proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or

shall direct MRO to make such revisions as NERC deems appropriate prior to approval. NERC shall submit MRO's approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of MRO's delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. MRO shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying MRO's assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of MRO's assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

(a) NERC shall submit invoices to the load-serving entities or designees identified by MRO covering the NERC and MRO assessments approved for collection.

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from Applicable Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, MRO shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, MRO is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within MRO's region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within MRO's region.

(c) Upon approval by Applicable Governmental Authorities of MRO's annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay MRO's annual assessment to Regional Entity in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by MRO shall be applied as a general offset to MRO's budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity.

6. Budget and Funding for MRO's Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), MRO performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"): **NONE**.

MRO shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions: **NOT APPLICABLE**.

MRO shall provide its budget for such non-statutory activities to NERC at the same time that MRO submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. MRO's budget for non-statutory activities that is provided to NERC shall contain a detailed list of MRO's non-statutory activities and a description of the funding sources for the non-statutory activities. MRO agrees that no costs (which shall include a reasonable allocation of MRO's general and administrative costs) of non-statutory activities are to be included in the calculation of MRO's assessments, dues, fees, and other charges for its statutory activities.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if MRO determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, MRO shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in MRO's approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct MRO to make such revisions as NERC deems appropriate prior to approval. NERC shall submit MRO's approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Records

Upon a request made to MRO with reasonable notice, NERC shall have access to and may review all financial records of MRO, including records used to prepare MRO's financial statements. NERC shall conduct reviews of the quarterly and annual financial statements submitted by MRO pursuant to Section 9(h) and (i) of the Agreement. MRO shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC.

**Attachment 4B: REDLINE – Revised Regional Delegation Agreement with
Midwest Reliability Organization**

REDLINE TO PRO FORMA RDA

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
~~AND [REGIONAL ENTITY]~~
AND MIDWEST RELIABILITY ORGANIZATION**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”)

Effective as of January 1, 2016, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and ~~[REGIONAL ENTITY]~~Midwest Reliability Organization, Inc. (“MRO”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified in **Exhibit A** to this Agreement, and for other purposes. NERC and ~~[REGIONAL ENTITY]~~MRO may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824o) (hereafter “the Act”), which, among other things, provides for the establishment of an Electric Reliability Organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the

delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as ~~[REGIONAL ENTITY]~~, MRO, provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, ~~[REGIONAL ENTITY]~~ ~~is/~~ MRO is not organized on an Interconnection-wide basis and therefore ~~is/is not~~ entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through ~~[REGIONAL ENTITY]~~ MRO to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that ~~[REGIONAL ENTITY]~~ MRO meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and ~~{REGIONAL ENTITY}~~MRO, having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and ~~{REGIONAL ENTITY}~~MRO agree as follows:

1. **Definitions.** The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) **Breach** means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) **Cross-Border Regional Entity** means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) **Delegated Authority** means the authority delegated by NERC to ~~{REGIONAL ENTITY}~~MRO to propose and enforce Reliability Standards, consistent with Section 4(d) and the boundaries identified in **Exhibit A** pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. **Representations.**

(a) For purposes of its Delegated Authority, ~~{REGIONAL ENTITY}~~MRO hereby represents and warrants to NERC that:

(i) ~~{REGIONAL ENTITY}~~MRO is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from

executing this Agreement and fulfilling its obligations hereunder. ~~[REGIONAL ENTITY]MRO~~ is governed in accordance with its bylaws by ~~[select appropriate: an independent board/a balanced stakeholder board/~~a combination independent and balanced stakeholder board~~]~~. Pursuant to these bylaws, no two industry sectors can control any ~~[REGIONAL ENTITY]MRO~~ decision and no single industry sector can veto any ~~[REGIONAL ENTITY]MRO~~ decision. The relevant criteria for the establishment of such bylaws are attached hereto in **Exhibit B**. No other ~~[REGIONAL ENTITY]MRO~~ corporate governance documents shall be inconsistent with the criteria in **Exhibit B**.

(ii) ~~[REGIONAL ENTITY]MRO~~ has developed a standards development procedure, which provides the process that ~~[REGIONAL ENTITY]MRO~~ may use to develop Regional Reliability Standards ~~[and Regional Variances, if the regional entity is organized on an Interconnection-wide basis]~~ that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, ~~[REGIONAL ENTITY]MRO~~ has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within ~~[REGIONAL ENTITY]'s~~MRO's geographic boundaries as shown in **Exhibit A**.

(b) NERC hereby represents and warrants to ~~[REGIONAL ENTITY]MRO~~ that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

(iii) NERC shall comply with its Certificate of Incorporation, Bylaws and Rules of Procedure, as from time to time adopted, approved or amended.

3. General Covenants.

(a) During the term of this Agreement, ~~[REGIONAL ENTITY]MRO~~ shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC approval, which shall not be unreasonably withheld or

delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) ~~{REGIONAL ENTITY}MRO~~ shall provide NERC with a copy of its Regional Entity Rules upon request by NERC.

(c) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of ~~{REGIONAL ENTITY}MRO~~ under this Agreement without first obtaining the consent of ~~{REGIONAL ENTITY}MRO~~, which consent shall not be unreasonably withheld or delayed.

(d) During the term of this Agreement, NERC and ~~{REGIONAL ENTITY}MRO~~ shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

(e) For purposes of this Agreement, NERC shall collaborate with the Regional Entities in the development of guidance, policies and procedures, and oversight parameters as contemplated by this Agreement. In the event that collaboration is not successful on any such matter, the NERC President may issue a directive with respect to such matter pursuant to Section 8 herein, and such directive shall be binding upon ~~{REGIONAL ENTITY}MRO~~.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of ~~{REGIONAL ENTITY}MRO~~ in this Agreement, ~~{REGIONAL ENTITY}'s}MRO's~~ corporate governance documents, ~~the {REGIONAL ENTITY}'s}MRO's~~ standards development process, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to ~~{REGIONAL ENTITY}MRO~~ for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth in **Exhibit A**, ~~provided, that {REGIONAL ENTITY} shall not monitor and enforce compliance with Reliability Standards-~~

~~for [REGIONAL ENTITY] or an affiliated entity with respect to reliability functions for which [REGIONAL ENTITY] or an affiliate is a Registered Entity.~~ Any exclusions from this delegation of authority to ~~[REGIONAL ENTITY]MRO~~ within, or additions to this delegation of authority to ~~[REGIONAL ENTITY]MRO~~ beyond, the geographic boundaries set forth in **Exhibit A** are stated in **Exhibit A**.

~~(b) In circumstances where [REGIONAL ENTITY] or an affiliated entity is a Registered Entity, [REGIONAL ENTITY] shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce [REGIONAL ENTITY]'s or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.~~

(b) [This subsection intentionally left blank].

(c) Nothing in this Agreement shall prohibit ~~[REGIONAL ENTITY]MRO~~ from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified in **Exhibit A** that is within the United States. Any delegation of authority by Applicable Governmental Authorities in Canada or Mexico shall be governed by the law of such authority or a separate agreement and is outside the scope of this Agreement; provided, however, that both ~~[REGIONAL ENTITY]MRO~~ and NERC shall endeavor to ensure that this Agreement and any such separate agreement are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, ~~[REGIONAL ENTITY]MRO~~ shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, ~~[REGIONAL ENTITY]MRO~~ shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords ~~{REGIONAL ENTITY}MRO~~ reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards ~~{and Regional Variances, if Regional Entity is organized on an Interconnection-wide basis}~~ through ~~{REGIONAL ENTITY}'sMRO's~~ process. ~~{REGIONAL ENTITY}'sMRO's~~ process shall be consistent with the NERC Rules of Procedure and Commission directives. Any changes to ~~{REGIONAL ENTITY}'sMRO's~~ process shall be submitted to the NERC Board of Trustees for approval and upon approval, be submitted to the Commission for approval. Proposals approved through ~~{REGIONAL ENTITY}'sMRO's~~ process shall be reviewed by the NERC Board of Trustees after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board of Trustees shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. ~~{REGIONAL ENTITY}MRO~~ may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, ~~{REGIONAL ENTITY}~~MRO shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the boundaries set forth in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and ~~{REGIONAL ENTITY}~~MRO agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, inter alia, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. ~~{REGIONAL ENTITY}~~MRO may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, ~~{REGIONAL ENTITY}~~MRO agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board of Trustees or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) ~~{REGIONAL ENTITY}~~MRO shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual ERO Compliance Monitoring and Enforcement Program Implementation Plan.

(c) ~~{REGIONAL ENTITY}~~MRO shall report promptly to NERC information regarding noncompliance with a Reliability Standard, and its eventual disposition by ~~{REGIONAL ENTITY}~~MRO, as set forth in, and subject to the confidentiality and disclosure provisions of, the NERC Rules of Procedure, the NERC Compliance Monitoring and Enforcement Program, this Agreement, compliance and enforcement program procedures and guidance that NERC may from time to time develop and the ERO Regulations. NERC shall promptly forward such report to the Commission, as required by the ERO Regulations, or as the Commission shall from time to time direct. NERC and ~~{REGIONAL ENTITY}~~MRO shall cooperate in filing such periodic summary reports and analyses as the Commission shall from time to time direct.

(d) All dispositions by ~~[REGIONAL ENTITY]MRO~~ of noncompliance with Reliability Standards shall be reported to NERC for review. NERC shall develop and implement policies and procedures for the review and, where appropriate, approval of dispositions of noncompliance.

(e) As part of its compliance monitoring and enforcement program, ~~[REGIONAL ENTITY]MRO~~ shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

~~(f) — [For Regional Entities with such agreements: [REGIONAL ENTITY] may also perform compliance monitoring and enforcement activities outside of the boundaries shown in Exhibit A, on behalf of a Regional Entity that is unable to perform such activities with respect to one or more registered entities within its footprint due to a conflict of interest. Such activities shall be performed pursuant to a contract between [REGIONAL ENTITY] and other such Regional Entity that is approved by both NERC and the Commission.]~~

7. Delegation-Related Activities.

NERC will engage ~~[REGIONAL ENTITY]MRO~~ on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed in **Exhibit E**. NERC may from time to time develop policies or procedures, which shall be used by ~~[REGIONAL ENTITY]MRO~~ in the performance of the delegation-related activities. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (g), each of which shall be considered a statutory activity:

(a) **Certification of Bulk-Power System Entities.** The NERC Board of Trustees shall set criteria for certification in accordance with the NERC Rules of Procedure. Certifications shall be issued in accordance with the NERC Rules of Procedure.

(b) **Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.**

(i) The NERC Board of Trustees shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by ~~REGIONAL ENTITY~~MRO and other Regional Entities. ~~REGIONAL ENTITY~~MRO shall provide timely and accurate information relating to registrations to NERC, as needed, to enable NERC to maintain a registration database that is accurate and up-to-date and to enable NERC to satisfy its monthly reporting obligation.

(iii) The NERC Board of Trustees Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board of Trustees Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) **Reliability Assessment and Performance Analysis.** ~~REGIONAL ENTITY~~MRO shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. ~~REGIONAL ENTITY~~MRO shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives, and policies and procedures related to data-gathering, quality control, forms, and reporting mechanisms that NERC may from time to time develop.

(d) **Event Analysis and Reliability Improvement.** ~~REGIONAL ENTITY~~MRO shall conduct event analysis pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop. NERC and ~~REGIONAL ENTITY~~MRO shall coordinate event analysis to support the effective and

efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, ~~{REGIONAL ENTITY}MRO~~ shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) **Training and Education.** ~~{REGIONAL ENTITY}MRO~~ may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) **Situation Awareness.** ~~{REGIONAL ENTITY}MRO~~ shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System.

(g) **Critical Infrastructure Security.** ~~{REGIONAL ENTITY}MRO~~ shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of ~~{REGIONAL ENTITY}'sMRO's~~ performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and ~~{REGIONAL ENTITY}MRO~~ that matters relating to NERC's oversight of ~~{REGIONAL ENTITY}'sMRO's~~ performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and ~~{REGIONAL ENTITY}MRO~~ and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with ~~[REGIONAL ENTITY]MRO~~ and other Regional Entities, performance goals, performance reports, measures and other parameters (including, without limiting the scope of such goals, financial performance goals), which shall be used to measure NERC's and ~~[REGIONAL ENTITY]'sMRO's~~ performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. ~~[REGIONAL ENTITY]MRO~~ shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate ~~[REGIONAL ENTITY]'sMRO's~~ performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters, and performance reports to evaluate ~~[REGIONAL ENTITY]'sMRO's~~ performance of its delegated functions and related activities and to provide advice and direction to ~~[REGIONAL ENTITY]MRO~~ on performance improvements. The performance goals, measures and other parameters, and the values of such goals, measures and parameters, shall be reviewed by NERC, ~~[REGIONAL ENTITY]MRO~~ and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, ~~[REGIONAL ENTITY]MRO~~ shall be required to develop, submit for NERC approval, and implement action plans to address, areas of its performance that are reasonably determined by NERC, based on analysis of ~~[REGIONAL ENTITY]'sMRO's~~ performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring ~~[REGIONAL ENTITY]MRO~~ to adopt and implement an action plan or other remedial action, NERC shall issue a notice to ~~[REGIONAL ENTITY]MRO~~ of the need and basis for an action plan or other remedial action and provide an opportunity for ~~[REGIONAL ENTITY]MRO~~ to submit a written response contesting NERC's evaluation of ~~[REGIONAL ENTITY]'sMRO's~~ performance and the need for an action plan. ~~[REGIONAL ENTITY]MRO~~ may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board of Trustees review and reconsider the request. NERC and ~~[REGIONAL ENTITY]MRO~~ shall work collaboratively as needed in the development and implementation of ~~[REGIONAL ENTITY]'sMRO's~~ action plan. A final action plan submitted by ~~[REGIONAL ENTITY]MRO~~

~~ENTITY~~MRO to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to ~~REGIONAL ENTITY~~MRO standardized training and education programs, which shall be designed taking into account input from ~~REGIONAL ENTITY~~MRO and other Regional Entities, for ~~REGIONAL ENTITY~~MRO personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to ~~REGIONAL ENTITY~~MRO concerning the manner in which ~~REGIONAL ENTITY~~MRO shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered “directives.” NERC shall initiate the development of a directive through a collaborative process with ~~REGIONAL ENTITY~~MRO and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and ~~REGIONAL ENTITY~~MRO and, if applicable, other Regional Entities, are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, ~~REGIONAL ENTITY~~MRO, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by ~~REGIONAL ENTITY~~MRO, the NERC Board of Trustees (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without ~~REGIONAL ENTITY~~MRO’s agreement, *provided*, that ~~REGIONAL ENTITY~~MRO shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and ~~REGIONAL ENTITY~~MRO and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to

paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that it is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board of Trustees (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which ~~[REGIONAL ENTITY]~~, MRO, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The NERC Board of Trustees or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the NERC Board of Trustees or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. ~~[REGIONAL ENTITY]~~, MRO, either individually or in conjunction with other Regional Entities, may request that the NERC Board of Trustees or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with ~~[REGIONAL ENTITY]~~, MRO, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) NERC may perform reviews of ~~[REGIONAL ENTITY]~~, MRO on a reasonable periodicity to determine ~~[REGIONAL ENTITY]~~'s MRO's compliance with this Agreement, any policies or procedures established by NERC, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c) and to monitor the implementation of guidance and directions issued by the NERC Board of Trustees pursuant to Section 8(d). All such periodic reviews shall comply with the NERC Rules of Procedure and Commission directives.

(g) The Commission and ~~the~~ Commission staff shall have full access to action plans

and remedial actions, directives, and directions and guidance issued pursuant to subsections (a)(iii), (c)(iv) and (d), respectively, that are maintained as non-public.

9. **Funding.** ~~[REGIONAL ENTITY]MRO~~ and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) ~~[REGIONAL ENTITY]MRO~~ shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. ~~[REGIONAL ENTITY]'sMRO's~~ proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, ~~[REGIONAL ENTITY]MRO~~ to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E**. ~~[REGIONAL ENTITY]'sMRO's~~ business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) ~~[REGIONAL ENTITY]MRO~~ and NERC agree that the portion of ~~[REGIONAL ENTITY]'sMRO's~~ approved budget for the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by ~~[REGIONAL ENTITY]MRO~~ and approved by NERC and the Commission. If ~~[REGIONAL ENTITY]MRO~~ proposes to use a formula other than Net Energy for Load beginning in the following year, ~~[REGIONAL ENTITY]MRO~~ shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and ~~[REGIONAL ENTITY]MRO~~ to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory

functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide ~~{REGIONAL ENTITY}~~MRO with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) ~~{REGIONAL ENTITY}~~MRO shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E**, as well as for all other activities of ~~{REGIONAL ENTITY}~~MRO, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund ~~{REGIONAL ENTITY}~~'sMRO's performance of its Delegated Authority and related activities in accordance with ~~{REGIONAL ENTITY}~~'sMRO's Commission- approved business plan and budget, in the amount of ~~{REGIONAL ENTITY}~~'sMRO's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting ~~{REGIONAL ENTITY}~~'sMRO's approved assessments from end users and other entities and payment of the approved assessment amount to ~~{REGIONAL ENTITY}~~MRO, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon ~~{REGIONAL ENTITY}~~MRO that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without ~~{REGIONAL ENTITY}~~'sMRO's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and ~~{REGIONAL ENTITY}~~MRO fiscal year budget with

the actual results at the NERC and Regional Entity levels. ~~[REGIONAL ENTITY]MRO~~ shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) ~~[REGIONAL ENTITY]MRO~~ shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) ~~[REGIONAL ENTITY]MRO~~ shall submit audited financial statements annually, including supporting materials, in a form provided by NERC, by no later than the date reasonably required and designated in writing by NERC to enable NERC to assemble and file the required annual budget to actual true up filing with the Commission.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which ~~[REGIONAL ENTITY]MRO~~ shall offset penalty monies it receives ~~(other than penalty monies received from an operational function or division or affiliated entity of [REGIONAL ENTITY])~~ against its next year's annual budget for carrying out functions under this Agreement, ~~and the mechanism by which [REGIONAL ENTITY] shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of [REGIONAL ENTITY].~~ *Provided*, that, subject to approval by NERC and the Commission, ~~[REGIONAL ENTITY]MRO~~ may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. ~~[REGIONAL ENTITY]MRO~~ may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit ~~[REGIONAL ENTITY]MRO~~ from contracting with other entities to assist it in carrying out its Delegated Authority, provided ~~[REGIONAL ENTITY]MRO~~ retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the “Default Notice”). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on ~~January 1, 2016~~ (the “Effective Date”).

(b) The term of this Agreement shall commence on the Effective Date, and shall have ~~an~~ initial term of five years (the “Term”), ending on December 31, 2020. Thereafter, the Term shall automatically extend for one additional five-year term unless either Party shall provide written notice of termination of this Agreement to the other no later than one year prior to the then effective expiration of the Term. In such event, this Agreement shall terminate upon the expiration of then effective Term, unless otherwise mutually agreed to by the Parties.

(c) In the event of the termination of this Agreement, the Parties shall work to provide for a transition of ~~[REGIONAL ENTITY]~~’s MRO’s Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement.

(d) If any provision of this Agreement, or the application thereof to any person, entity

or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by ~~REGIONAL ENTITY~~MRO and NERC.

(e) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. ~~REGIONAL ENTITY~~MRO and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and ~~REGIONAL ENTITY~~MRO shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of ~~REGIONAL ENTITY~~'sMRO's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that ~~REGIONAL ENTITY~~MRO or NERC is found liable for gross negligence or intentional misconduct, in which case ~~REGIONAL ENTITY~~MRO or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party, except as otherwise specifically provided herein and in Section 15(c).

15. Confidentiality.

(a) During the course of the Parties' performance under this Agreement, a Party may receive proprietary, business sensitive, or critical infrastructure information ("Confidential Information") necessary to fulfill its respective obligations in connection with this Agreement. The Parties agree that their mutual objective under this provision is to provide appropriate protection for Confidential Information, while maintaining the ability to conduct their respective business activities.

(b) No obligation of confidentiality shall apply to any information that the recipient: (i) already possesses without obligation of confidentiality; (ii) develops independently; or (iii) rightfully receives without any obligation of confidentiality from a third party.

(c) The Parties may transfer or exchange such Confidential Information with and between the other Regional Entities as third-party beneficiaries of the terms of this Agreement, provided the Parties and the other Regional Entities as third-party beneficiaries continue to maintain the confidentiality of such information.

(d) Except as set forth herein and within the NERC Rules of Procedure, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party or specified third-party beneficiary of this Agreement, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party or specified third-party beneficiary of this Agreement that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party or specified third-party beneficiary of this Agreement to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party or specified third-party beneficiary of this

Agreement waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information.

(e) Each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein.

(f) This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement, nor does it prohibit permitted disclosures as set forth in the NERC Rules of Procedure.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of ~~[REGIONAL ENTITY]MRO~~ under this Agreement without first obtaining the consent of ~~[REGIONAL ENTITY],MRO~~, which consent shall not be unreasonably withheld or delayed. To the extent ~~[REGIONAL ENTITY]MRO~~ does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of ~~[REGIONAL ENTITY]MRO~~ under this Agreement, ~~[REGIONAL ENTITY]MRO~~ shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by ~~[REGIONAL ENTITY]MRO~~ to NERC and the Commission, or at such other time as may be mutually agreed by ~~[REGIONAL ENTITY]MRO~~ and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and ~~[REGIONAL ENTITY]MRO~~ (including disputes relating to NERC's performance of its

obligations under this Agreement and/or disputes relating to ~~[REGIONAL ENTITY]~~'s MRO's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute.

~~[REGIONAL ENTITY]~~ MRO shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, provided, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty

(20) business days immediately following the time period described in subsection (c), provided, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. Provided, however, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. All notices, demands, requests, and other communications required, permitted by, or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand, email or overnight courier:

If to NERC:

North American Electric Reliability Corporation
1325 G Street NW, Suite 600
Washington, DC 20005
Attn: General Counsel
Email: legal@nerc.net

If to ~~REGIONAL ENTITY~~MRO:

Midwest Reliability Organization
380 St. Peter Street
Suite 800
St. Paul, Minnesota 55102
Attn: General Counsel
Email: generalcounsel@midwestreliability.org

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of Georgia without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in Georgia. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in Georgia for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. Savings Clause. Nothing in this Agreement shall be construed to preempt or limit any authority that ~~REGIONAL ENTITY~~MRO may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to

the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. Entire Agreement. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. Execution of Counterparts. This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

~~[REGIONAL ENTITY]~~MIDWEST
RELIABILITY ORGANIZATION, INC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A — Regional Boundaries

Exhibit A to the delegation agreement for each Regional Entity receiving Delegated Authority shall describe the geographic or electrical boundaries covered by the proposed delegation of authority. **Exhibit A** for each Regional Entity shall reflect coordination with neighboring Regional Entities, as appropriate, to ensure that all relevant areas are either included within the geographic boundaries of a Regional Entity or specifically identified as not being within the geographic boundaries of any Regional Entity. Any exclusions of geographic or electrical areas or of Registered Entities from the scope of the Regional Entity's Delegated Authority within the geographic or electrical boundaries shown in **Exhibit A**, and any additions of geographic or electrical areas or of Registered Entities located outside the boundaries shown in **Exhibit A** to the scope of the Regional Entity's Delegated Authority, shall be specifically stated or described in **Exhibit A**.

MRO is one of eight regional entities that comprise the North American Electric Reliability Corporation (NERC). MRO is a not for profit entity committed to safeguarding and improving reliability of the Bulk Power System in the upper Midwest part of North America and the Canadian provinces of Manitoba and Saskatchewan. The Midwest Reliability Organization region supplies approximately 270,000,000 megawatt-hours to more than twenty million people and covers roughly one million square miles.

There are several Regional Transmission Organizations that overlap MRO and other Regional Entity footprints. MRO coordinates its delegated responsibilities with these neighboring Regional Entities to avoid duplicity and ensure consistency and accuracy. MRO does not have affiliates and does not perform any reliability functions that would result in a conflict or inability to perform the delegated responsibilities of this Agreement.

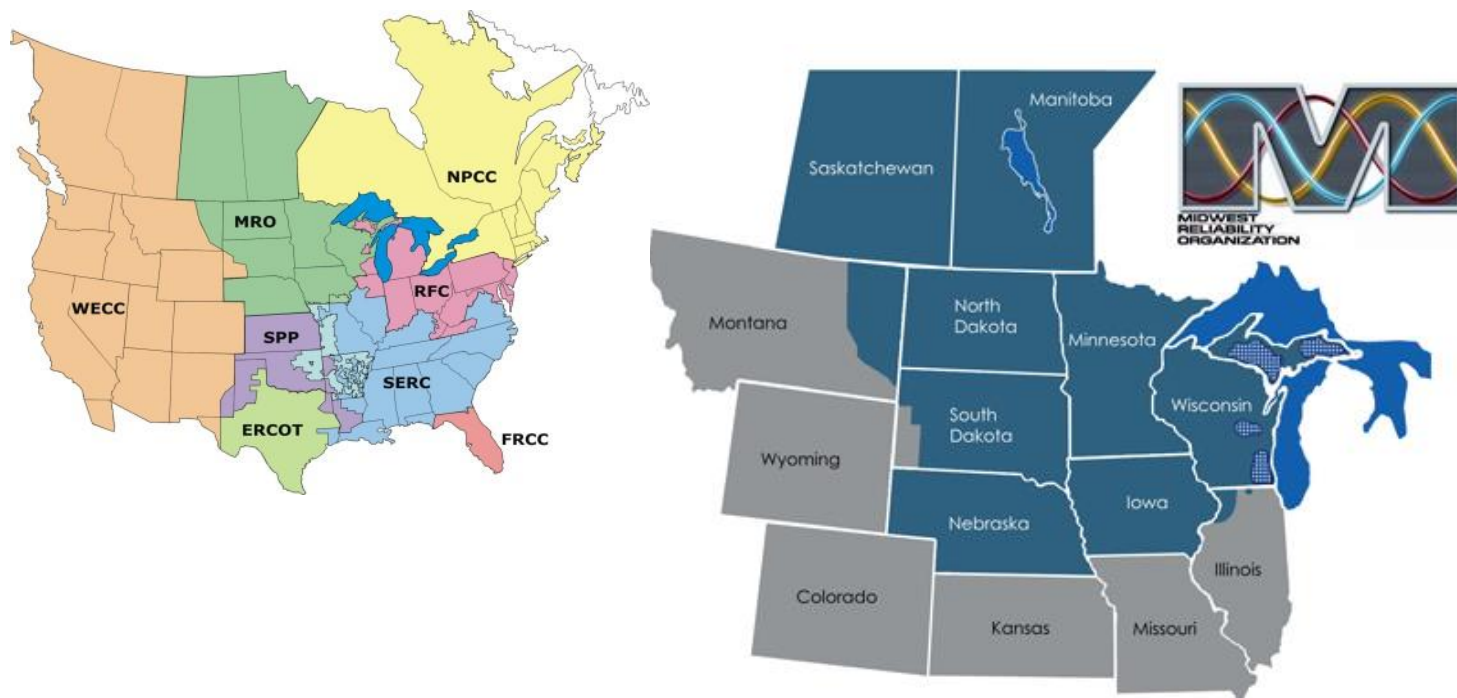


Exhibit B — Governance

The Regional Entity bylaws shall meet the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence from the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

Exhibit C [Intentionally left blank]

Exhibit D — Compliance Monitoring and Enforcement Program

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

~~[REGIONAL ENTITY]~~Midwest Reliability Organization (“MRO”) will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within ~~[REGIONAL ENTITY]’s~~MRO’s geographic or electrical boundaries, and such other scope, set forth in **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

~~[REGIONAL ENTITY]~~MRO, to the extent required in the Rules of Procedure, shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be either ~~[REGIONAL ENTITY]’s~~MRO’s board, a committee of the board, a balanced compliance panel reporting directly to ~~[REGIONAL ENTITY]’s~~MRO’s board or an independent hearing panel. ~~[REGIONAL ENTITY]’s~~MRO’s hearing body is a balanced subset of its board that is appointed by the board with no more than one member from each sector. ~~[its board] [if not the board, insert the name of the committee or group serving as the hearing body].~~

~~[If the hearing body is a compliance panel other than the board, provide here a description of how the members of the compliance panel are selected and the qualifications to be selected for the compliance panel.]~~

To the extent required in the Rules of Procedure, ~~[REGIONAL ENTITY]~~MRO shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: ~~[Describe any deviations, or state “None.” If there are deviations from the NERC pro forma Hearing Procedures, [REGIONAL ENTITY]’s Hearing Procedures shall be included as a separate attachment to this Exhibit D.]~~NONE.

3.0 OTHER DECISION-MAKING BODIES

~~If [REGIONAL ENTITY] uses other decision-making bodies within its compliance program, provide here a description of the function of that body to the extent not described elsewhere in the Agreement or exhibits, how the members of that body are selected, and the qualifications to be selected for that body.]~~A presiding officer who presides over the reception of evidence may prepare recommendations to be used by the board of directors in preparing its decision in a compliance hearing. In addition to compliance hearings, MRO’s Hearing Body also reviews and approves settlements in a yes or no fashion, but is not permitted to make modifications to negotiated settlements/agreements.

Exhibit E — Funding

1. Scope of Activities Funded through the ERO Funding Mechanism

~~{Regional Entity}~~Midwest Reliability Organization (“MRO”) shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and ~~{Regional Entity}~~MRO, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of ~~{Regional Entity}'s~~MRO's business plan and budget. The annual schedule for the preparation of business plans and budgets shall require ~~{Regional Entity}~~MRO (i) to submit to NERC draft(s) of ~~{Regional Entity}'s~~MRO's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by ~~{Regional Entity}~~MRO Board of Trustees to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of ~~{Regional Entity}'s~~MRO's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The ~~{Regional Entity}~~MRO business plan and budget submission shall include supporting materials, including ~~{Regional Entity}'s~~MRO's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. ~~{Regional Entity}'s~~ MRO's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve ~~{Regional Entity}'s~~MRO's proposed business

plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct ~~[Regional Entity]MRO~~ to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~[Regional Entity]’sMRO’s~~ approved business plan and budget and proposed assessments to the Commission for approval as part of NERC’s overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of ~~[REGIONAL ENTITY]’sMRO’s~~ delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. ~~[Regional Entity]MRO~~ shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying ~~[Regional Entity]’sMRO’s~~ assessment and the load-serving entities’ proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of ~~[Regional Entity]’sMRO’s~~ assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

~~{IF NERC WILL BILL AND COLLECT ASSESSMENTS DIRECTLY FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY’S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):}~~

(a) NERC shall submit invoices to the load-serving entities or designees identified by ~~[Regional Entity]MRO~~ covering the NERC and ~~[Regional Entity]MRO~~ assessments approved for collection.

~~{IF THE REGIONAL ENTITY WILL ACT AS THE BILLING AND COLLECTION AGENT ON BEHALF OF NERC TO BILL AND COLLECT ASSESSMENTS FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY’S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):}~~

~~(a) ——— NERC and [Regional Entity] agree that [Regional Entity] shall act as the billing and collection agent on behalf of NERC to bill and collect [Regional Entity]’s assessments from load-serving entities and designees (or such other entities as agreed by NERC and [Regional Entity]). [Regional Entity] agrees that it shall (i) issue all invoices to load-serving entities and other entities in a prompt and timely manner after receipt from NERC of the information needed to issue the invoices; (ii) exercise commercially reasonable efforts to collect invoices that are not paid as of the due date(s); and (iii) transfer all funds collected to NERC in a timely manner, as follows: Prior to the start of each calendar quarter,~~

~~and once per week thereafter until all billings for the quarter are collected, [Regional Entity] will electronically transfer to NERC, in immediately available funds, all payments received by [Regional Entity] from load-serving entities or other entities for payment of invoices. On the same day that [Regional Entity] makes each electronic transfer of funds to NERC, [Regional Entity] shall send an email to the Chief Financial Officer or Controller of NERC detailing the collections being transmitted, including a listing of the load-serving entities or other entities from which payments were collected and the amount collected from each entity. [Note: If NERC and Regional Entity have a different collection and payment arrangement, the preceding two sentences will be modified accordingly to describe it.]~~

~~[Regional Entity] agrees that it shall not in any way use its position as billing and collection agent for NERC to attempt to influence NERC's policies or decisions on matters relating to adoption of Reliability Standards (including Regional Reliability Standards and Regional Variances), administration of the compliance monitoring and enforcement program and other compliance and enforcement matters, determination and imposition of penalties and sanctions, budgeting matters including review and approval of [Regional Entity's] budgets and business plans, or any other NERC decisions, including by issuing invoices, engaging in collection activities or transferring funds collected to NERC in an untimely manner or other than in accordance with this Agreement.~~

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from Applicable Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, ~~[Regional Entity]MRO~~ shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, ~~[Regional Entity]MRO~~ is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within ~~[REGIONAL ENTITY]'sMRO's~~ region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within ~~[Regional Entity]'sMRO's~~ region.

(c) Upon approval by Applicable Governmental Authorities of ~~[Regional Entity]'sMRO's~~ annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay ~~[Regional Entity]'sMRO's~~ annual assessment to Regional Entity in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by ~~[Regional Entity], other than penalty monies received from an operational function or division or affiliated entity of [Regional Entity],MRO~~ shall be applied as a general offset to ~~[Regional Entity]'sMRO's~~ budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. ~~Except as otherwise approved by the~~

~~Commission, any penalty monies received from an operational function or division or affiliated entity of [Regional Entity] shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.~~

6. Budget and Funding for [Regional Entity's]MRO's Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), [Regional Entity]MRO performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"): ~~[List and describe all non-statutory activities performed by Regional Entity, or state "None."]~~**NONE.**

~~[Regional Entity]MRO shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non- statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions: [List and describe the methods and procedures Regional Entity employs to keep costs and funding of statutory activities separate from costs and funding of non-statutory activities, including at a minimum a description of how Regional Entity's bank accounts and receivables/payables procedures are set up for both statutory and non-statutory functions, a description of how Regional Entity ensures each employee involved in both statutory and non-statutory functions keeps accurate time records reflecting his/her activities, and a description of how Regional Entity's general and administrative costs are allocated between statutory activities and non-statutory activities. If the necessary descriptions are lengthy they may be provided in a separate attachment labeled "Attachment E-1", and state here "See Attachment E-1." If Regional Entity has listed no non-statutory functions in the preceding paragraph, state here "Not applicable."]~~**NOT APPLICABLE.**

~~[Regional Entity]MRO shall provide its budget for such non-statutory activities to NERC at the same time that [Regional Entity]MRO submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. [Regional-Entity's]MRO's budget for non-statutory activities that is provided to NERC shall contain a detailed list of [Regional Entity's]MRO's non-statutory activities and a description of the funding sources for the non-statutory activities. [Regional Entity]MRO agrees that no costs (which shall include a reasonable allocation of [Regional Entity]'sMRO's general and administrative costs) of non-statutory activities are to be included in the calculation of [Regional Entity's]MRO's assessments, dues, fees, and other charges for its statutory activities.~~

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if [Regional Entity]MRO determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, [Regional Entity]MRO shall submit to NERC one or more proposed amended or

supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in ~~[Regional Entity]'s MRO's~~ approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct ~~[Regional Entity]MRO~~ to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~[Regional Entity]'s MRO's~~ approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Records

Upon a request made to ~~[Regional Entity]MRO~~ with reasonable notice, NERC shall have access to and may review all financial records of ~~[Regional Entity],MRO,~~ including records used to prepare ~~[Regional Entity's]MRO's~~ financial statements. NERC shall conduct reviews of the quarterly and annual financial statements submitted by ~~[Regional Entity]MRO~~ pursuant to Section 9(h) and (i) of the Agreement. ~~[Regional Entity]MRO~~ shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC.

**Attachment 5A: CLEAN – Revised Regional Delegation Agreement with
Northeast Power Coordinating Council, Inc.**

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
AND NORTHEAST POWER COORDINATING COUNCIL, INC.**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”)

Effective as of January 1, 2016, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and Northeast Power Coordinating Council, Inc. (“NPCC”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified in **Exhibit A** to this Agreement, and for other purposes. NERC and NPCC may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824o) (hereafter “the Act”), which, among other things, provides for the establishment of an Electric Reliability Organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional

entities (“Regional Entities”) such as NPCC, provided that:

- (A) The Regional Entity is governed by —
 - (i) an independent board;
 - (ii) a balanced stakeholder board; or
 - (iii) a combination independent and balanced stakeholder board.
- (B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2)

of the Act; and

- (C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, NPCC is not organized on an Interconnection-wide basis and therefore is not entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through NPCC to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that NPCC meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and NPCC, having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate

the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and NPCC agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to NPCC to propose and enforce Reliability Standards, consistent with Section 4(d) and the boundaries identified in **Exhibit A** pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. Representations.

(a) For purposes of its Delegated Authority, NPCC hereby represents and warrants to NERC that:

(i) NPCC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. NPCC is governed in accordance with its bylaws by a combination independent and balanced stakeholder board. Pursuant to these bylaws, no two

industry sectors can control any NPCC decision and no single industry sector can veto any NPCC decision. The relevant criteria for the establishment of such bylaws are attached hereto in **Exhibit B**. No other NPCC corporate governance documents shall be inconsistent with the criteria in **Exhibit B**.

(ii) NPCC has developed a standards development procedure, which provides the process that NPCC may use to develop Regional Reliability Standards that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, NPCC has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within NPCC's geographic boundaries as shown in **Exhibit A**.

(b) NERC hereby represents and warrants to NPCC that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

(iii) NERC shall comply with its Certificate of Incorporation, Bylaws and Rules of Procedure, as from time to time adopted, approved or amended.

3. General Covenants.

(a) During the term of this Agreement, NPCC shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) NPCC shall provide NERC with a copy of its Regional Entity Rules upon request by NERC.

(c) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of NPCC under this Agreement without first obtaining the consent of NPCC, which consent shall not be unreasonably withheld or delayed.

(d) During the term of this Agreement, NERC and NPCC shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

(e) For purposes of this Agreement, NERC shall collaborate with the Regional Entities in the development of guidance, policies and procedures, and oversight parameters as contemplated by this Agreement. In the event that collaboration is not successful on any such matter, the NERC President may issue a directive with respect to such matter pursuant to Section 8 herein, and such directive shall be binding upon NPCC.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of NPCC in this Agreement, NPCC's corporate governance documents, the NPCC's standards development process, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to NPCC for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth in **Exhibit A**, provided, that NPCC shall not monitor and enforce compliance with Reliability Standards for NPCC or an affiliated entity with respect to reliability functions for which NPCC or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to NPCC within, or additions to this delegation of authority to NPCC beyond, the geographic boundaries set forth in **Exhibit A** are stated in **Exhibit A**.

(b) In circumstances where NPCC or an affiliated entity is a Registered Entity, NPCC shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce NPCC's or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit NPCC from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified in **Exhibit A** that is within the United States. Any delegation of authority by Applicable Governmental Authorities in Canada or Mexico shall be governed by the law of such authority or a separate agreement and is outside the scope of this Agreement; provided, however, that both NPCC and NERC shall endeavor to ensure that this Agreement and any such separate agreement are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, NPCC shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, NPCC shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords NPCC reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards through NPCC's process. NPCC's process shall be consistent with the NERC Rules of Procedure and Commission directives. Any changes to NPCC's process shall be submitted to the NERC Board of Trustees for approval and upon approval, be submitted to the Commission for approval. Proposals approved through NPCC's process shall be reviewed by the NERC Board of Trustees after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time.

The NERC Board of Trustees shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. NPCC may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, NPCC shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the boundaries set forth in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and NPCC agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, inter alia, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. NPCC may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, NPCC agrees to comply with the NERC Rules of Procedure, with any

directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board of Trustees or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) NPCC shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual ERO Compliance Monitoring and Enforcement Program Implementation Plan.

(c) NPCC shall report promptly to NERC information regarding noncompliance with a Reliability Standard, and its eventual disposition by NPCC, as set forth in, and subject to the confidentiality and disclosure provisions of, the NERC Rules of Procedure, the NERC Compliance Monitoring and Enforcement Program, this Agreement, compliance and enforcement program procedures and guidance that NERC may from time to time develop and the ERO Regulations. NERC shall promptly forward such report to the Commission, as required by the ERO Regulations, or as the Commission shall from time to time direct. NERC and NPCC shall cooperate in filing such periodic summary reports and analyses as the Commission shall from time to time direct.

(d) All dispositions by NPCC of noncompliance with Reliability Standards shall be reported to NERC for review. NERC shall develop and implement policies and procedures for the review and, where appropriate, approval of dispositions of noncompliance.

(e) As part of its compliance monitoring and enforcement program, NPCC shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

(f) NPCC may also perform compliance monitoring and enforcement activities outside of the boundaries shown in **Exhibit A**, on behalf of a Regional Entity that is unable to perform such activities with respect to one or more registered entities within its footprint due to a conflict of interest. Such activities shall be performed pursuant to a contract between NPCC and

other such Regional Entity that is approved by both NERC and the Commission.

7. Delegation-Related Activities.

NERC will engage NPCC on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed in **Exhibit E**. NERC may from time to time develop policies or procedures, which shall be used by NPCC in the performance of the delegation-related activities. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (g), each of which shall be considered a statutory activity:

(a) **Certification of Bulk-Power System Entities.** The NERC Board of Trustees shall set criteria for certification in accordance with the NERC Rules of Procedure. Certifications shall be issued in accordance with the NERC Rules of Procedure.

(b) **Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.**

(i) The NERC Board of Trustees shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by NPCC and other Regional Entities. NPCC shall provide timely and accurate information relating to registrations to NERC, as needed, to enable NERC to maintain a registration database that is accurate and up-to-date and to enable NERC to satisfy its monthly reporting obligation.

(iii) The NERC Board of Trustees Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board of Trustees Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) **Reliability Assessment and Performance Analysis.** NPCC shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. NPCC shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives, and policies and procedures related to data-gathering, quality control, forms, and reporting mechanisms that NERC may from time to time develop.

(d) **Event Analysis and Reliability Improvement.** NPCC shall conduct event analysis pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop. NERC and NPCC shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, NPCC shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) **Training and Education.** NPCC may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) **Situation Awareness.** NPCC shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System.

(g) **Critical Infrastructure Security.** NPCC shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of NPCC's performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and NPCC that matters relating to NERC's oversight of NPCC's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and NPCC and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with NPCC and other Regional Entities, performance goals, performance reports, measures and other parameters (including, without limiting the scope of such goals, financial performance goals), which shall be used to measure NERC's and NPCC's performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. NPCC shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate NPCC's performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters, and performance reports to evaluate NPCC's performance of its delegated functions and related activities and to provide advice and direction to NPCC on performance improvements. The performance goals, measures and other parameters, and the values of such goals, measures and parameters, shall be reviewed by NERC, NPCC and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, NPCC shall be required to develop, submit for NERC approval, and implement action plans to address, areas of its performance that are reasonably determined by NERC, based on analysis of NPCC's performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring NPCC to adopt and

implement an action plan or other remedial action, NERC shall issue a notice to NPCC of the need and basis for an action plan or other remedial action and provide an opportunity for NPCC to submit a written response contesting NERC's evaluation of NPCC's performance and the need for an action plan. NPCC may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board of Trustees review and reconsider the request. NERC and NPCC shall work collaboratively as needed in the development and implementation of NPCC's action plan. A final action plan submitted by NPCC to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to NPCC standardized training and education programs, which shall be designed taking into account input from NPCC and other Regional Entities, for NPCC personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to NPCC concerning the manner in which NPCC shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered "directives." NERC shall initiate the development of a directive through a collaborative process with NPCC and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and NPCC and, if applicable, other Regional Entities, are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, NPCC, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by NPCC, the NERC Board of Trustees (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without NPCC's agreement, *provided*, that NPCC shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good

cause can be shown for a later request.

(iv) NERC and NPCC and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that it is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board of Trustees (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which NPCC, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The NERC Board of Trustees or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the NERC Board of Trustees or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. NPCC, either individually or in conjunction with other Regional Entities, may request that the NERC Board of Trustees or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with NPCC, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) NERC may perform reviews of NPCC on a reasonable periodicity to determine NPCC's compliance with this Agreement, any policies or procedures established by NERC, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c) and to monitor the implementation of guidance and directions issued by the NERC Board of Trustees

pursuant to Section 8(d). All such periodic reviews shall comply with the NERC Rules of Procedure and Commission directives.

(g) The Commission and the Commission staff shall have full access to action plans and remedial actions, directives, and directions and guidance issued pursuant to subsections (a)(iii), (c)(iv) and (d), respectively, that are maintained as non-public.

9. Funding. NPCC and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) NPCC shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. NPCC's proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, NPCC to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E**. NPCC's business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) NPCC and NERC agree that the portion of NPCC's approved budget for the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by NPCC and approved by NERC and the Commission. If NPCC proposes to use a formula other than Net Energy for Load beginning in the following year, NPCC shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and NPCC to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide NPCC with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) NPCC shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E**, as well as for all other activities of NPCC, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund NPCC's performance of its Delegated Authority and related activities in accordance with NPCC's Commission-approved business plan and budget, in the amount of NPCC's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting NPCC's approved assessments from end users and other entities and payment of the approved assessment amount to NPCC, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon NPCC that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without NPCC's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and NPCC fiscal year budget with the actual results at the NERC and Regional Entity levels. NPCC shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts.

NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) NPCC shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) NPCC shall submit audited financial statements annually, including supporting materials, in a form provided by NERC, by no later than the date reasonably required and designated in writing by NERC to enable NERC to assemble and file the required annual budget to actual true up filing with the Commission.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which NPCC shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of NPCC) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which NPCC shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of NPCC. *Provided*, that, subject to approval by NERC and the Commission, NPCC may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. NPCC may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit NPCC from contracting with other entities to assist it in carrying out its Delegated Authority, provided NPCC retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if

such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on January 1, 2016 (the “Effective Date”).

(b) The term of this Agreement shall commence on the Effective Date, and shall have an initial term of five years (the “Term”), ending on December 31, 2020. Thereafter, the Term shall automatically extend for one additional five-year term unless either Party shall provide written notice of termination of this Agreement to the other no later than one year prior to the then effective expiration of the Term. In such event, this Agreement shall terminate upon the expiration of then effective Term, unless otherwise mutually agreed to by the Parties.

(c) In the event of the termination of this Agreement, the Parties shall work to provide for a transition of NPCC’s Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement.

(d) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to

such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by NPCC and NERC.

(e) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. NPCC and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and NPCC shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of NPCC's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that NPCC or NERC is found liable for gross negligence or intentional misconduct, in which case NPCC or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party, except as otherwise specifically provided herein and in Section 15(c).

15. Confidentiality.

(a) During the course of the Parties' performance under this Agreement, a Party may receive proprietary, business sensitive, or critical infrastructure information ("Confidential

Information”) necessary to fulfill its respective obligations in connection with this Agreement. The Parties agree that their mutual objective under this provision is to provide appropriate protection for Confidential Information, while maintaining the ability to conduct their respective business activities.

(b) No obligation of confidentiality shall apply to any information that the recipient: (i) already possesses without obligation of confidentiality; (ii) develops independently; or (iii) rightfully receives without any obligation of confidentiality from a third party.

(c) The Parties may transfer or exchange such Confidential Information with and between the other Regional Entities as third-party beneficiaries of the terms of this Agreement, provided the Parties and the other Regional Entities as third-party beneficiaries continue to maintain the confidentiality of such information.

(d) Except as set forth herein and within the NERC Rules of Procedure, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party or specified third-party beneficiary of this Agreement, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party or specified third-party beneficiary of this Agreement that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party or specified third-party beneficiary of this Agreement to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party or specified third-party beneficiary of this Agreement waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient’s counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information.

(e) Each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors’ employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained

herein.

(f) This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement, nor does it prohibit permitted disclosures as set forth in the NERC Rules of Procedure.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of NPCC under this Agreement without first obtaining the consent of NPCC, which consent shall not be unreasonably withheld or delayed. To the extent NPCC does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of NPCC under this Agreement, NPCC shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by NPCC to NERC and the Commission, or at such other time as may be mutually agreed by NPCC and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and NPCC (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to NPCC's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. NPCC shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, provided, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), provided, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution

mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. Provided, however, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. All notices, demands, requests, and other communications required, permitted by, or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand, email or overnight courier:

If to NERC:

North American Electric Reliability
Corporation
1325 G Street NW, Suite 600
Washington, DC 20005
Attn: General Counsel
Email: legal@nerc.net

If to NPCC:

Northeast Power Coordinating Council, Inc.
1040 Avenue of the Americas
10th Floor
New York, New York 10018
Attn: Edward Schwerdt
Email: eschwerdt@npcc.org

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of Georgia without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in Georgia. All Parties

hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in Georgia for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. Savings Clause. Nothing in this Agreement shall be construed to preempt or limit any authority that NPCC may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. Entire Agreement. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. Execution of Counterparts. This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

NORTHEAST POWER COORDINATING
COUNCIL, INC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

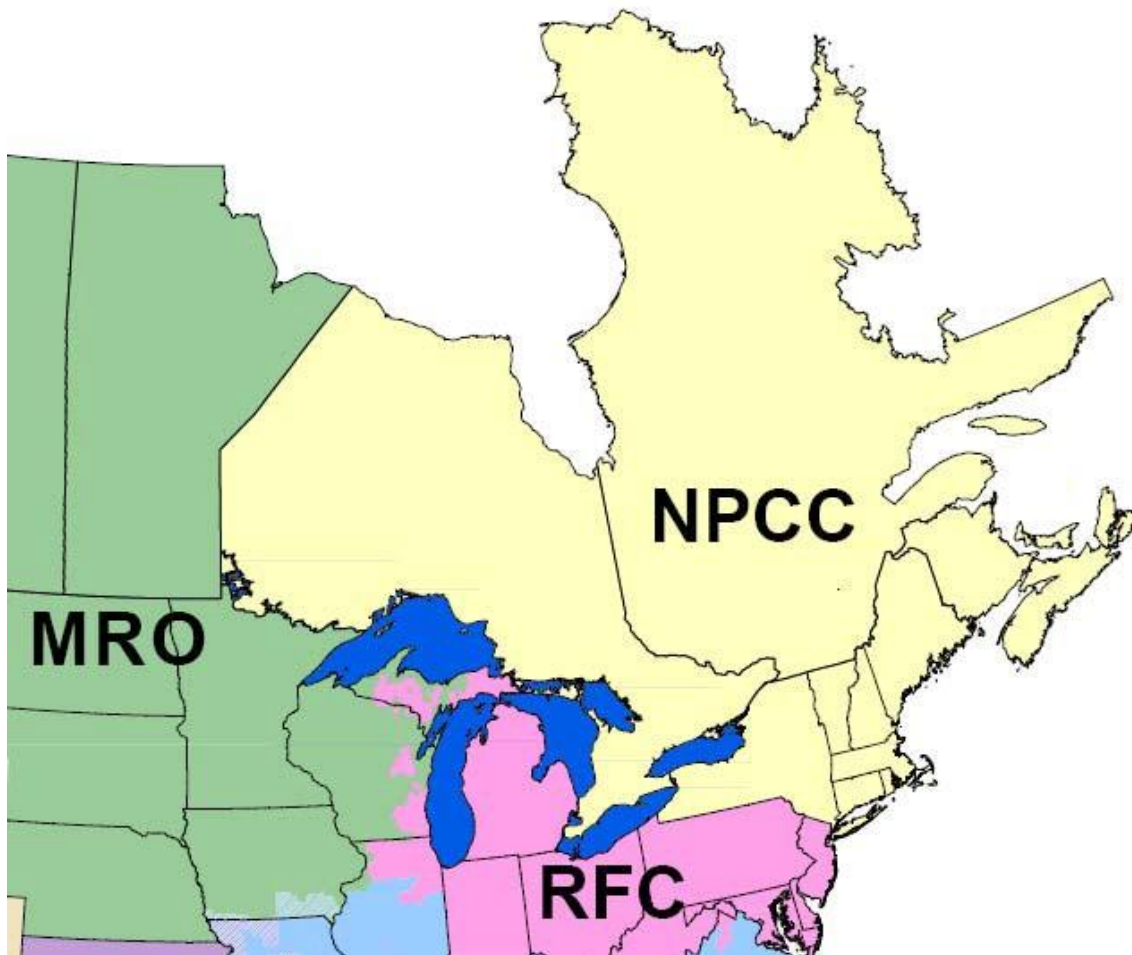
Date: _____

Date: _____



**Northeast Power Coordinating Council, Inc. (NPCC)
Exhibit A – Geographic Area**

The geographic area covered by NPCC includes New York state, the six New England states, and Ontario, Quebec, and the Maritime Provinces in Canada. The total population served is approximately 56 million. The area covered is approximately 1 million square miles.



NPCC may also perform compliance monitoring and enforcement activities outside of the region shown above, on behalf of NERC and/or other Regional Entities, such activities undertaken pursuant to a contract between NPCC and such other Regional Entity that is approved by NERC and the Commission.

Exhibit B — Governance

The Regional Entity bylaws shall meet the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence from the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

Exhibit C [Intentionally left blank]



Northeast Power Coordinating Council, Inc.

Exhibit D — Compliance Monitoring and Enforcement Program

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

1.1 Obligations of NPCC

NPCC will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within the U.S. portion of NPCC's geographic or electrical boundaries, and such other scope, set forth in **Exhibit A** of this Agreement, subject to any deviations from the NERC Compliance Monitoring and Enforcement Program described in Section 1.2 below (the "Compliance Program").

1.2 Deviations from the NERC Compliance Monitoring and Enforcement Program

Compliance monitoring and enforcement programs will be implemented within the Canadian portion of NPCC's geographic area, consistent with individual Canadian Provincial Memoranda of Understanding (MOU) or Agreements and Canadian laws. All executed MOUs and Agreements will be provided to NERC as allowable under Canadian law.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

NPCC, to the extent required in the Rules of Procedure, shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a registered entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan. The NPCC Compliance Committee, reporting to the NPCC Board, will be responsible for impaneling a Hearing Body, when required. The Hearing Body will consist of an independent Hearing Officer and two (2) Independent Directors. The Hearing Officer, who is not a member of the Compliance Committee, the NPCC Board, or NPCC Staff, will conduct the hearing. The Hearing Body will utilize a simple majority vote to resolve issues. This voting rule, along with the structure of the Hearing Body, fully supports the requirement that no two stakeholder sectors may control, and no single stakeholder sector may veto, a matter before the Hearing Body.

To the extent required in the Rules of Procedure, NPCC shall conduct all compliance hearings in which a registered entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: None



3.0 OTHER DECISION-MAKING BODIES

NPCC Management, based on the review and recommendations of Compliance Staff, will be the sole decision-making body to review and make final determinations on each potential noncompliance identified by any means.

Exhibit E — Funding

1. Scope of Activities Funded through the ERO Funding Mechanism

NPCC shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and NPCC, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of NPCC's business plan and budget. The annual schedule for the preparation of business plans and budgets shall require NPCC (i) to submit to NERC draft(s) of NPCC's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by NPCC Board of Directors to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of NPCC's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The NPCC business plan and budget submission shall include supporting materials, including NPCC's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. NPCC's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve NPCC's proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct NPCC to make such revisions as NERC deems appropriate prior to approval.

NERC shall submit NPCC's approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of NPCC's delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. NPCC shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying NPCC's assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of NPCC's assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

(a) NERC shall submit invoices to the load-serving entities or designees identified by NPCC covering the NERC and NPCC assessments approved for collection.

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from Applicable Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, NPCC shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, NPCC is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within NPCC's region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within NPCC's region.

(c) Upon approval by Applicable Governmental Authorities of NPCC's annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay NPCC's annual assessment to NPCC in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by NPCC, other than penalty monies received from an operational function or division or affiliated entity of NPCC, shall be applied as a general offset to NPCC's budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the

investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of NPCC shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for NPCC's Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), NPCC's Criteria Services division performs the following other functions and activities (such other functions and activities being referred to in this Section as "non-statutory activities"):

NPCC List of Criteria Services Division Functions (Non-Statutory Activities)

1. Regionally-specific Criteria
 - NPCC develops and maintains Regionally-specific more stringent criteria
 - NPCC develops and maintains criteria establishing resource adequacy requirements within the region
2. Criteria Compliance Program
 - NPCC monitors and assesses compliance with its more stringent regional criteria
 - NPCC conducts a Reliability Compliance and Enforcement Program (RCEP) utilizing non-monetary sanctions

NPCC shall employ the following methods and procedures to (i) keep its funding mechanisms for its Regional Entity division (statutory activities) separate from its funding mechanisms for its Criteria Services division (non- statutory activities), and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions:

1. Funding of NPCC Criteria Services Division (non-statutory activities). A separate membership based funding mechanism is utilized for non-statutory activities.
2. NPCC procedures for separating funding and expenditures for Regional Entity division (statutory activities) and criteria services division (non-statutory activities)

NPCC utilizes the NERC System of Accounts (NSOA) to provide consistency for account codes, divisional separation codes and activity codes. In August of 2007, NPCC CBRE (which prior to the merger performed statutory activities) merged into and with Northeast Power Coordinating Council, Inc. (referred to as NPCC) (which prior to the merger performed non-statutory activities) with the merged corporation having divisional separation for Regional Entity and Criteria Services. As recommended by NERC, NPCC uses the not-for-profit MIP Fund Accounting program by Sage Software to accurately account for income, time and labor. Effective January 1, 2008, with corporate restructuring of NPCC completed in later 2007, 2008 actual program costs are being charged to appropriate program

areas.

NPCC does not conduct resource or transmission planning, is not an Independent System Operator (ISO), nor does it perform the functions of a Reliability Coordinator (RC). As such, while at this time, there is a breakout for Criteria related activities, all functions performed by NPCC are in the furtherance of NERC's statutory mission and reliability of the international bulk power system in Northeastern North America.

Methodology

NPCC's revenue and expenditure classification methodology identifies appropriate methods of accounting for income, time and costs to ensure that U.S. Federal/statutory and Canadian provincial and/or governmental authorities' agreed upon revenue and expenses are accounted for separately from NPCC's Regionally-specific Criteria development and Criteria compliance (non-statutory) income, time and expense.

Division Codes

There are two division codes that are used by NPCC in accounting for revenues and expenses. The codes are as follows:

Division ID	Division Name
RE	Regional Entity – U.S. Statutory and Canadian Regulatory and/or Governmental Authority authorized
CSD	Criteria Services - Non-Statutory

The two division codes allow NPCC to separate Regional Entity statutory activity revenues and expenses from Criteria Services non-statutory activity revenues and expenses. These categories were developed to ensure that non-statutory related revenues and expenses are segregated and accounted for separately from statutory-related revenues and expenses.

Program Codes

As required by NERC, NPCC adopted a financial accounting system consistent with NERC's functional categories. At NPCC, functional categories are referred to as Program Codes.

There are twelve program codes that are used by NPCC in accounting for expenses. The codes are as follows:

Program ID	Program Name
300	Reliability Standards
400	Compliance Enforcement and Organization Registration and Certification
800	Reliability Assessment and Performance Analysis
700	Reliability Readiness Evaluation and Improvement
900	Training and Education
1000	Situational Awareness and Infrastructure Security
ADMIN	General Administration
FINANCE	Accounting and Finance
HR	Human Resources
IT	Information Technology
LEGAL	Legal and Regulatory
MEMBERS	Members Forum

Program codes are used to further delineate expenses into functional groupings that are assigned to program heads. NPCC staff utilize their assigned program codes (the program where they reside for payroll purposes) when coding expenses, unless otherwise authorized by management.

When time is spent in support of both statutory activities and non-statutory activities (applicable to a limited number of employees in the Administrative Services functions of General Administration, Accounting and Finance, Human resources, Information Technology, Legal and Regulatory and Members Forms), staff members develop accurate timesheet allocations between division codes.

Divisional separation with regard to statutory activities (Regional Entity division) and non-statutory activities (Criteria Services division) is reflected in the NPCC balance sheet and general ledger through the MIP Fund Accounting software programs.

NPCC shall provide its budget for such non-statutory activities to NERC at the same time that NPCC submits its annual budget request to NERC pursuant to Section 1. NPCC's budget for non-statutory activities that is provided to NERC shall contain a detailed list of NPCC's non-statutory activities and a description of the funding sources for the non-statutory activities. NPCC agrees that no costs of non-statutory activities are to be included in the calculation of NPCC's charges for its activities pursuant to this Agreement.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if NPCC determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, NPCC shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in NPCC's approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct NPCC to make such revisions as NERC deems appropriate prior to approval. NERC shall submit NPCC's approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Records

Upon a request made to NPCC with reasonable notice, NERC shall have access to and may review all financial records of NPCC, including records used to prepare NPCC's financial statements. NERC shall conduct reviews of the quarterly and annual financial statements submitted by NPCC pursuant to Section 9(h) and (i) of the Agreement. NPCC shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC.

9. Costs Associated with Cross-Regional Compliance Monitoring and Enforcement

The costs associated with any Cross-Regional Compliance Monitoring and Enforcement performed by NPCC pursuant to Section 6(f) of this Agreement with respect to registered functions of another Regional Entity are to be funded by payments from the Regional Entity contracting with NPCC for such services, in accordance with the contract between NPCC and the other Regional Entity. Where such a contract has been entered into, NPCC will include a description of the resources it has budgeted to perform such services, and its estimated costs (including appropriate allocation of NPCC's General and Administrative costs) to perform such services, in each budget year, in NPCC's annual business plan and budget that is submitted to NERC and the Commission for approval.

Attachment 5B: REDLINE – Revised Regional Delegation Agreement with
Northeast Power Coordinating Council, Inc.

REDLINE TO PRO FORMA RDA

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
~~AND [REGIONAL ENTITY]~~
AND NORTHEAST POWER COORDINATING COUNCIL, INC.**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”)

Effective as of January 1, 2016, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and ~~[REGIONAL ENTITY]~~, Northeast Power Coordinating Council, Inc. (“NPCC”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified in **Exhibit A** to this Agreement, and for other purposes. NERC and ~~[REGIONAL ENTITY]~~NPCC may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824o) (hereafter “the Act”), which, among other things, provides for the establishment of an Electric Reliability Organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the

delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as ~~[REGIONAL ENTITY]~~, NPCC, provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, ~~[REGIONAL ENTITY]~~ ~~is/~~ NPCC is not organized on an Interconnection-wide basis and therefore ~~is/is not~~ entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through ~~[REGIONAL ENTITY]~~ NPCC to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that ~~[REGIONAL ENTITY]~~ NPCC meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and ~~{REGIONAL ENTITY}~~, NPCC, having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and ~~{REGIONAL ENTITY}~~NPCC agree as follows:

1. **Definitions.** The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) **Breach** means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) **Cross-Border Regional Entity** means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) **Delegated Authority** means the authority delegated by NERC to ~~{REGIONAL ENTITY}~~NPCC to propose and enforce Reliability Standards, consistent with Section 4(d) and the boundaries identified in **Exhibit A** pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. **Representations.**

(a) For purposes of its Delegated Authority, ~~{REGIONAL ENTITY}~~NPCC hereby represents and warrants to NERC that:

(i) ~~{REGIONAL ENTITY}~~NPCC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from

executing this Agreement and fulfilling its obligations hereunder. ~~[REGIONAL ENTITY]NPCC~~ is governed in accordance with its bylaws by ~~[select appropriate: an independent board/a balanced stakeholder board/~~a combination independent and balanced stakeholder board~~].~~ Pursuant to these bylaws, no two industry sectors can control any ~~[REGIONAL ENTITY]NPCC~~ decision and no single industry sector can veto any ~~[REGIONAL ENTITY]NPCC~~ decision. The relevant criteria for the establishment of such bylaws are attached hereto in **Exhibit B**. No other ~~[REGIONAL ENTITY]NPCC~~ corporate governance documents shall be inconsistent with the criteria in **Exhibit B**.

(ii) ~~[REGIONAL ENTITY]NPCC~~ has developed a standards development procedure, which provides the process that ~~[REGIONAL ENTITY]NPCC~~ may use to develop Regional Reliability Standards ~~[and Regional Variances, if the regional entity is organized on an Interconnection wide basis]~~ that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, ~~[REGIONAL ENTITY]NPCC~~ has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within ~~[REGIONAL ENTITY]'s~~NPCC's geographic boundaries as shown in **Exhibit A**.

(b) NERC hereby represents and warrants to ~~[REGIONAL ENTITY]NPCC~~ that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

(iii) NERC shall comply with its Certificate of Incorporation, Bylaws and Rules of Procedure, as from time to time adopted, approved or amended.

3. General Covenants.

(a) During the term of this Agreement, ~~[REGIONAL ENTITY]NPCC~~ shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC approval, which shall not be unreasonably withheld or

delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) ~~{REGIONAL ENTITY}NPCC~~ shall provide NERC with a copy of its Regional Entity Rules upon request by NERC.

(c) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of ~~{REGIONAL ENTITY}NPCC~~ under this Agreement without first obtaining the consent of ~~{REGIONAL ENTITY}NPCC~~, which consent shall not be unreasonably withheld or delayed.

(d) During the term of this Agreement, NERC and ~~{REGIONAL ENTITY}NPCC~~ shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

(e) For purposes of this Agreement, NERC shall collaborate with the Regional Entities in the development of guidance, policies and procedures, and oversight parameters as contemplated by this Agreement. In the event that collaboration is not successful on any such matter, the NERC President may issue a directive with respect to such matter pursuant to Section 8 herein, and such directive shall be binding upon ~~{REGIONAL ENTITY}NPCC~~.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of ~~{REGIONAL ENTITY}NPCC~~ in this Agreement, ~~{REGIONAL ENTITY}'s}NPCC's~~ corporate governance documents, the ~~{REGIONAL ENTITY}'s}NPCC's~~ standards development process, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to ~~{REGIONAL ENTITY}NPCC~~ for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth in **Exhibit A**, provided, that ~~{REGIONAL ENTITY}NPCC~~ shall not monitor and enforce compliance with Reliability

Standards for ~~{REGIONAL ENTITY}~~NPCC or an affiliated entity with respect to reliability functions for which ~~{REGIONAL ENTITY}~~NPCC or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to ~~{REGIONAL ENTITY}~~NPCC within, or additions to this delegation of authority to ~~{REGIONAL ENTITY}~~NPCC beyond, the geographic boundaries set forth in **Exhibit A** are stated in **Exhibit A**.

(b) In circumstances where ~~{REGIONAL ENTITY}~~NPCC or an affiliated entity is a Registered Entity, ~~{REGIONAL ENTITY}~~NPCC shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce ~~{REGIONAL ENTITY}~~'sNPCC's or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit ~~{REGIONAL ENTITY}~~NPCC from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified in **Exhibit A** that is within the United States. Any delegation of authority by Applicable Governmental Authorities in Canada or Mexico shall be governed by the law of such authority or a separate agreement and is outside the scope of this Agreement; provided, however, that both ~~{REGIONAL ENTITY}~~NPCC and NERC shall endeavor to ensure that this Agreement and any such separate agreement are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, ~~{REGIONAL ENTITY}~~NPCC shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, ~~{REGIONAL ENTITY}~~NPCC shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords ~~{REGIONAL ENTITY}NPCC~~ reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards ~~{and Regional Variances, if Regional Entity is organized on an Interconnection-wide basis}~~ through ~~{REGIONAL ENTITY}'sNPCC's~~ process. ~~{REGIONAL ENTITY}'sNPCC's~~ process shall be consistent with the NERC Rules of Procedure and Commission directives. Any changes to ~~{REGIONAL ENTITY}'sNPCC's~~ process shall be submitted to the NERC Board of Trustees for approval and upon approval, be submitted to the Commission for approval. Proposals approved through ~~{REGIONAL ENTITY}'sNPCC's~~ process shall be reviewed by the NERC Board of Trustees after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board of Trustees shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. ~~{REGIONAL ENTITY}NPCC~~ may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, ~~{REGIONAL ENTITY}~~NPCC shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the boundaries set forth in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and ~~{REGIONAL ENTITY}~~NPCC agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, inter alia, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. ~~{REGIONAL ENTITY}~~NPCC may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, ~~{REGIONAL ENTITY}~~NPCC agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board of Trustees or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) ~~{REGIONAL ENTITY}~~NPCC shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual ERO Compliance Monitoring and Enforcement Program Implementation Plan.

(c) ~~{REGIONAL ENTITY}~~NPCC shall report promptly to NERC information regarding noncompliance with a Reliability Standard, and its eventual disposition by ~~{REGIONAL ENTITY}~~NPCC, as set forth in, and subject to the confidentiality and disclosure provisions of, the NERC Rules of Procedure, the NERC Compliance Monitoring and Enforcement Program, this Agreement, compliance and enforcement program procedures and guidance that NERC may from time to time develop and the ERO Regulations. NERC shall promptly forward such report to the Commission, as required by the ERO Regulations, or as the Commission shall from time to time direct. NERC and ~~{REGIONAL ENTITY}~~NPCC shall cooperate in filing such periodic summary reports and analyses as the Commission shall from time to time direct.

(d) All dispositions by ~~[REGIONAL ENTITY]NPCC~~ of noncompliance with Reliability Standards shall be reported to NERC for review. NERC shall develop and implement policies and procedures for the review and, where appropriate, approval of dispositions of noncompliance.

(e) As part of its compliance monitoring and enforcement program, ~~[REGIONAL ENTITY]NPCC~~ shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

(f) ~~[For Regional Entities with such agreements: [REGIONAL ENTITY]NPCC~~ may also perform compliance monitoring and enforcement activities outside of the boundaries shown in **Exhibit A**, on behalf of a Regional Entity that is unable to perform such activities with respect to one or more registered entities within its footprint due to a conflict of interest. Such activities shall be performed pursuant to a contract between ~~[REGIONAL ENTITY]NPCC~~ and other such Regional Entity that is approved by both NERC and the Commission.

7. Delegation-Related Activities.

NERC will engage ~~[REGIONAL ENTITY]NPCC~~ on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed in **Exhibit E**. NERC may from time to time develop policies or procedures, which shall be used by ~~[REGIONAL ENTITY]NPCC~~ in the performance of the delegation-related activities. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (g), each of which shall be considered a statutory activity:

(a) **Certification of Bulk-Power System Entities.** The NERC Board of Trustees shall set criteria for certification in accordance with the NERC Rules of Procedure. Certifications shall be issued in accordance with the NERC Rules of Procedure.

(b) **Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.**

(i) The NERC Board of Trustees shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by ~~REGIONAL ENTITY~~NPCC and other Regional Entities. ~~REGIONAL ENTITY~~NPCC shall provide timely and accurate information relating to registrations to NERC, as needed, to enable NERC to maintain a registration database that is accurate and up-to-date and to enable NERC to satisfy its monthly reporting obligation.

(iii) The NERC Board of Trustees Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board of Trustees Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) **Reliability Assessment and Performance Analysis.** ~~REGIONAL ENTITY~~NPCC shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. ~~REGIONAL ENTITY~~NPCC shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives, and policies and procedures related to data-gathering, quality control, forms, and reporting mechanisms that NERC may from time to time develop.

(d) **Event Analysis and Reliability Improvement.** ~~REGIONAL ENTITY~~NPCC shall conduct event analysis pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop. NERC and ~~REGIONAL ENTITY~~NPCC shall coordinate event analysis to support the effective and

efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, ~~{REGIONAL ENTITY}~~NPCC shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) **Training and Education.** ~~{REGIONAL ENTITY}~~NPCC may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) **Situation Awareness.** ~~{REGIONAL ENTITY}~~NPCC shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System.

(g) **Critical Infrastructure Security.** ~~{REGIONAL ENTITY}~~NPCC shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of ~~{REGIONAL ENTITY}~~'sNPCC's performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and ~~{REGIONAL ENTITY}~~NPCC that matters relating to NERC's oversight of ~~{REGIONAL ENTITY}~~'sNPCC's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and ~~{REGIONAL ENTITY}~~NPCC and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with ~~[REGIONAL ENTITY]NPCC~~ and other Regional Entities, performance goals, performance reports, measures and other parameters (including, without limiting the scope of such goals, financial performance goals), which shall be used to measure NERC's and ~~[REGIONAL ENTITY]'sNPCC's~~ performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. ~~[REGIONAL ENTITY]NPCC~~ shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate ~~[REGIONAL ENTITY]'sNPCC's~~ performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters, and performance reports to evaluate ~~[REGIONAL ENTITY]'sNPCC's~~ performance of its delegated functions and related activities and to provide advice and direction to ~~[REGIONAL ENTITY]NPCC~~ on performance improvements. The performance goals, measures and other parameters, and the values of such goals, measures and parameters, shall be reviewed by NERC, ~~[REGIONAL ENTITY]NPCC~~ and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, ~~[REGIONAL ENTITY]NPCC~~ shall be required to develop, submit for NERC approval, and implement action plans to address, areas of its performance that are reasonably determined by NERC, based on analysis of ~~[REGIONAL ENTITY]'sNPCC's~~ performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring ~~[REGIONAL ENTITY]NPCC~~ to adopt and implement an action plan or other remedial action, NERC shall issue a notice to ~~[REGIONAL ENTITY]NPCC~~ of the need and basis for an action plan or other remedial action and provide an opportunity for ~~[REGIONAL ENTITY]NPCC~~ to submit a written response contesting NERC's evaluation of ~~[REGIONAL ENTITY]'sNPCC's~~ performance and the need for an action plan. ~~[REGIONAL ENTITY]NPCC~~ may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board of Trustees review and reconsider the request. NERC and ~~[REGIONAL ENTITY]NPCC~~ shall work collaboratively as needed in the development and implementation of ~~[REGIONAL ENTITY]'sNPCC's~~ action plan. A final action plan submitted

by ~~{REGIONAL ENTITY}~~NPCC to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to ~~{REGIONAL ENTITY}~~NPCC standardized training and education programs, which shall be designed taking into account input from ~~{REGIONAL ENTITY}~~NPCC and other Regional Entities, for ~~{REGIONAL ENTITY}~~NPCC personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to ~~{REGIONAL ENTITY}~~NPCC concerning the manner in which ~~{REGIONAL ENTITY}~~NPCC shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered “directives.” NERC shall initiate the development of a directive through a collaborative process with ~~{REGIONAL ENTITY}~~NPCC and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and ~~{REGIONAL ENTITY}~~NPCC and, if applicable, other Regional Entities, are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, ~~{REGIONAL ENTITY}~~NPCC, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by ~~{REGIONAL ENTITY}~~NPCC, the NERC Board of Trustees (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without ~~{REGIONAL ENTITY}~~NPCC’s agreement, *provided*, that ~~{REGIONAL ENTITY}~~NPCC shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and ~~{REGIONAL ENTITY}~~NPCC and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to

paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that it is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board of Trustees (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which ~~[REGIONAL ENTITY]~~, NPCC, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The NERC Board of Trustees or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the NERC Board of Trustees or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. ~~[REGIONAL ENTITY]~~, NPCC, either individually or in conjunction with other Regional Entities, may request that the NERC Board of Trustees or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with ~~[REGIONAL ENTITY]~~, NPCC, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) NERC may perform reviews of ~~[REGIONAL ENTITY]~~ NPCC on a reasonable periodicity to determine ~~[REGIONAL ENTITY]~~'s NPCC's compliance with this Agreement, any policies or procedures established by NERC, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c) and to monitor the implementation of guidance and directions issued by the NERC Board of Trustees pursuant to Section 8(d). All such periodic reviews shall comply with the NERC Rules of Procedure and Commission directives.

(g) The Commission and the Commission staff shall have full access to action plans

and remedial actions, directives, and directions and guidance issued pursuant to subsections (a)(iii), (c)(iv) and (d), respectively, that are maintained as non-public.

9. **Funding.** ~~REGIONAL ENTITY~~NPCC and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) ~~REGIONAL ENTITY~~NPCC shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. - ~~REGIONAL ENTITY~~'sNPCC's proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, ~~REGIONAL ENTITY~~NPCC to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E**. ~~REGIONAL ENTITY~~'sNPCC's business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) ~~REGIONAL ENTITY~~NPCC and NERC agree that the portion of ~~REGIONAL ENTITY~~'sNPCC's approved budget for the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by ~~REGIONAL ENTITY~~NPCC and approved by NERC and the Commission. If ~~REGIONAL ENTITY~~NPCC proposes to use a formula other than Net Energy for Load beginning in the following year, ~~REGIONAL ENTITY~~NPCC shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and ~~REGIONAL ENTITY~~NPCC to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide ~~{REGIONAL ENTITY}~~NPCC with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) ~~{REGIONAL ENTITY}~~NPCC shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E**, as well as for all other activities of ~~{REGIONAL ENTITY}~~NPCC, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund ~~{REGIONAL ENTITY}~~'sNPCC's performance of its Delegated Authority and related activities in accordance with ~~{REGIONAL ENTITY}~~'sNPCC's Commission-approved business plan and budget, in the amount of ~~{REGIONAL ENTITY}~~'sNPCC's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting ~~{REGIONAL ENTITY}~~'sNPCC's approved assessments from end users and other entities and payment of the approved assessment amount to ~~{REGIONAL ENTITY}~~NPCC, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon ~~{REGIONAL ENTITY}~~NPCC that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without ~~{REGIONAL ENTITY}~~'sNPCC's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare

each Commission-approved NERC and ~~{REGIONAL ENTITY}NPCC~~ fiscal year budget with the actual results at the NERC and Regional Entity levels. ~~{REGIONAL ENTITY}NPCC~~ shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) ~~{REGIONAL ENTITY}NPCC~~ shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) ~~{REGIONAL ENTITY}NPCC~~ shall submit audited financial statements annually, including supporting materials, in a form provided by NERC, by no later than the date reasonably required and designated in writing by NERC to enable NERC to assemble and file the required annual budget to actual true up filing with the Commission.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which ~~{REGIONAL ENTITY}NPCC~~ shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of ~~{REGIONAL ENTITY}NPCC~~) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which ~~{REGIONAL ENTITY}NPCC~~ shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of ~~{REGIONAL ENTITY}NPCC~~. *Provided*, that, subject to approval by NERC and the Commission, ~~{REGIONAL ENTITY}NPCC~~ may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. ~~{REGIONAL ENTITY}NPCC~~ may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit ~~{REGIONAL ENTITY}NPCC~~ from contracting with other entities to assist it in carrying out its Delegated Authority, provided

~~[REGIONAL ENTITY]~~NPCC retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the “Default Notice”). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on ~~[January 1, 2016]~~ (the “Effective Date”).

(b) The term of this Agreement shall commence on the Effective Date, and shall have an initial term of five years (the “Term”), ending on December 31, 2020. Thereafter, the Term shall automatically extend for one additional five-year term unless either Party shall provide written notice of termination of this Agreement to the other no later than one year prior to the then effective expiration of the Term. In such event, this Agreement shall terminate upon the expiration of then effective Term, unless otherwise mutually agreed to by the Parties.

(c) In the event of the termination of this Agreement, the Parties shall work to provide for a transition of ~~[REGIONAL ENTITY]~~’sNPCC’s Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with

termination of this Agreement.

(d) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by ~~REGIONAL ENTITY~~NPCC and NERC.

(e) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. ~~REGIONAL ENTITY~~NPCC and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and ~~REGIONAL ENTITY~~NPCC shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of ~~REGIONAL ENTITY~~'sNPCC's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that ~~REGIONAL ENTITY~~NPCC or NERC is found liable for gross negligence or intentional misconduct, in which case ~~REGIONAL ENTITY~~NPCC or NERC shall not be liable for any indirect,

incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party, except as otherwise specifically provided herein and in Section 15(c).

15. Confidentiality.

(a) During the course of the Parties' performance under this Agreement, a Party may receive proprietary, business sensitive, or critical infrastructure information ("Confidential Information") necessary to fulfill its respective obligations in connection with this Agreement. The Parties agree that their mutual objective under this provision is to provide appropriate protection for Confidential Information, while maintaining the ability to conduct their respective business activities.

(b) No obligation of confidentiality shall apply to any information that the recipient: (i) already possesses without obligation of confidentiality; (ii) develops independently; or (iii) rightfully receives without any obligation of confidentiality from a third party.

(c) The Parties may transfer or exchange such Confidential Information with and between the other Regional Entities as third-party beneficiaries of the terms of this Agreement, provided the Parties and the other Regional Entities as third-party beneficiaries continue to maintain the confidentiality of such information.

(d) Except as set forth herein and within the NERC Rules of Procedure, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party or specified third-party beneficiary of this Agreement, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party or specified third-party beneficiary of this Agreement that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party or specified third-party beneficiary of this Agreement to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive

compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party or specified third-party beneficiary of this Agreement waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information.

(e) Each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein.

(f) This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement, nor does it prohibit permitted disclosures as set forth in the NERC Rules of Procedure.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of ~~{REGIONAL ENTITY}NPCC~~ under this Agreement without first obtaining the consent of ~~{REGIONAL ENTITY}NPCC~~, which consent shall not be unreasonably withheld or delayed. To the extent ~~{REGIONAL ENTITY}NPCC~~ does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of ~~{REGIONAL ENTITY}NPCC~~ under this Agreement, ~~{REGIONAL ENTITY}NPCC~~ shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by ~~{REGIONAL ENTITY}NPCC~~ to NERC and the Commission, or at such other time as may be mutually agreed by ~~{REGIONAL ENTITY}NPCC~~ and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and ~~[REGIONAL ENTITY]~~NPCC (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to ~~[REGIONAL ENTITY]'s~~NPCC's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. ~~[REGIONAL ENTITY]~~ NPCC shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, provided, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive

officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), provided, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. Provided, however, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. All notices, demands, requests, and other communications required, permitted by, or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand, email or overnight courier:

If to NERC:

North American Electric Reliability Corporation
1325 G Street NW, Suite 600
Washington, DC 20005
Attn: General Counsel
Email: legal@nerc.net

If to ~~[REGIONAL ENTITY]~~NPCC:

Northeast Power Coordinating Council, Inc.
1040 Avenue of the Americas
10th Floor
New York, New York 10018
Attn: Edward Schwerdt
Email: eschwerdt@npcc.org

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of Georgia without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in Georgia. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in Georgia for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. Savings Clause. Nothing in this Agreement shall be construed to preempt or limit any authority that ~~[REGIONAL ENTITY]~~NPCC may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the

region described in **Exhibit A**.

23. Entire Agreement. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. Execution of Counterparts. This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

~~[REGIONAL ENTITY]~~NORTHEAST
POWER COORDINATING COUNCIL,
INC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

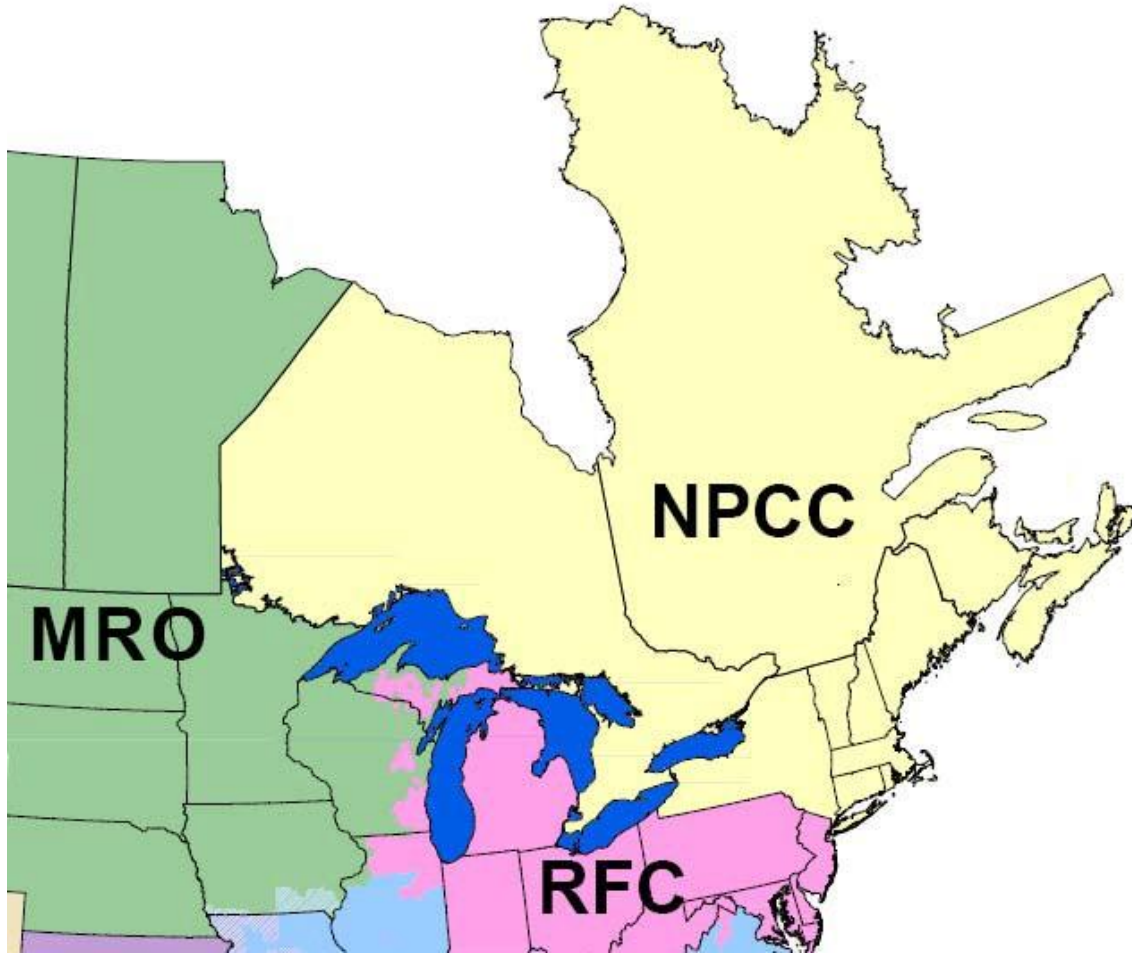
Date: _____



Northeast Power Coordinating Council, Inc. (NPCC)
Exhibit A – Regional Boundaries Geographic Area

~~Exhibit A to the delegation agreement for each Regional Entity receiving Delegated Authority shall describe the geographic or electrical boundaries covered by the proposed delegation of authority. Exhibit A for each Regional Entity shall reflect coordination with neighboring Regional Entities, as appropriate, to ensure that all relevant areas are either included within the geographic boundaries of a Regional Entity or specifically identified as not being within the geographic boundaries of any Regional Entity. Any exclusions of geographic or electrical areas or of Registered Entities from the scope of the Regional Entity's Delegated Authority within the geographic or electrical boundaries shown in Exhibit A, and any additions of geographic or electrical areas or of Registered Entities located outside the boundaries shown in Exhibit A to the scope of the Regional Entity's Delegated Authority, shall be specifically stated or described in Exhibit A.~~

The geographic area covered by NPCC includes New York state, the six New England states, and Ontario, Quebec, and the Maritime Provinces in Canada. The total population served is approximately 56 million. The area covered is approximately 1 million square miles.



NPCC may also perform compliance monitoring and enforcement activities outside of the region shown above, on behalf of NERC and/or other Regional Entities, such activities undertaken pursuant to a contract between NPCC and such other Regional Entity that is approved by NERC and the Commission.

Exhibit B — Governance

The Regional Entity bylaws shall meet the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence from the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

Exhibit C [Intentionally left blank]



Northeast Power Coordinating Council, Inc.

Exhibit D — Compliance Monitoring and Enforcement Program

1.0 ~~1.0~~ — REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

1.1 ~~[REGIONAL ENTITY]~~ Obligations of NPCC

NPCC will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within ~~[REGIONAL ENTITY]'s~~ the U.S. portion of NPCC's geographic or electrical boundaries, and such other scope, set forth in **Exhibit A** of this Agreement, subject to any deviations from the NERC Compliance Monitoring and Enforcement Program described in Section 1.2 below (the "Compliance Program").

1.2 Deviations from the NERC Compliance Monitoring and Enforcement Program

Compliance monitoring and enforcement programs will be implemented within the Canadian portion of NPCC's geographic area, consistent with individual Canadian Provincial Memoranda of Understanding (MOU) or Agreements and Canadian laws. All executed MOUs and Agreements will be provided to NERC as allowable under Canadian law.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

~~[REGIONAL ENTITY], NPCC,~~ to the extent required in the Rules of Procedure, shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a ~~Registered Entity~~ registered entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, ~~which shall be either [REGIONAL ENTITY]'s board, a committee of the board, a balanced compliance panel reporting directly to [REGIONAL ENTITY]'s board or an independent hearing panel. [REGIONAL ENTITY]'s hearing body is [its board] [if not the board, insert the name of the committee or group serving as the hearing body].~~ The NPCC Compliance Committee, reporting to the NPCC Board, will be responsible for impaneling a Hearing Body, when required. The Hearing Body will consist of an independent Hearing Officer and two (2) Independent Directors. The Hearing Officer, who is not a member of the Compliance Committee, the NPCC Board, or NPCC Staff, will conduct the hearing. The Hearing Body will utilize a simple majority vote to resolve issues. This voting rule, along with the structure of the Hearing Body, fully supports the requirement that no two stakeholder sectors may control, and no single stakeholder sector may veto, a matter before the Hearing Body.



~~{If the hearing body is a compliance panel other than the board, provide here a description of how the members of the compliance panel are selected and the qualifications to be selected for the compliance panel.}~~

To the extent required in the Rules of Procedure, ~~[REGIONAL ENTITY]~~NPCC shall conduct all compliance hearings in which a ~~Registered Entity~~registered entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: ~~{Describe any deviations, or state "None." If there are deviations from the NERC pro-forma Hearing Procedures, [REGIONAL ENTITY]'s Hearing Procedures shall be included as a separate attachment to this Exhibit D.}~~None

3.0 OTHER DECISION-MAKING BODIES

~~If [REGIONAL ENTITY] uses other decision-making bodies within its compliance program, provide here a description of the function of that body to the extent not described elsewhere in the Agreement or exhibits, how the members of that body are selected, and the qualifications to be selected for that body.}~~ NPCC Management, based on the review and recommendations of Compliance Staff, will be the sole decision-making body to review and make final determinations on each potential noncompliance identified by any means.

Exhibit E — Funding

1. Scope of Activities Funded through the ERO Funding Mechanism

~~{Regional Entity}~~NPCC shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and ~~{Regional Entity}~~NPCC, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of ~~{Regional Entity}'s~~NPCC's business plan and budget. The annual schedule for the preparation of business plans and budgets shall require ~~{Regional Entity}~~NPCC (i) to submit to NERC draft(s) of ~~{Regional Entity}'s~~NPCC's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by ~~{Regional Entity}~~NPCC Board of ~~Trustees~~Directors to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of ~~{Regional Entity}'s~~NPCC's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The ~~{Regional Entity}~~NPCC business plan and budget submission shall include supporting materials, including ~~{Regional Entity}'s~~NPCC's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. ~~{Regional Entity}'s~~NPCC's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve ~~{Regional Entity}'s~~NPCC's proposed business plan and budget and proposed assessments for performing the delegated functions and

related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct ~~[Regional Entity]NPCC~~ to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~[Regional Entity]’sNPCC’s~~ approved business plan and budget and proposed assessments to the Commission for approval as part of NERC’s overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of ~~[REGIONAL ENTITY]’sNPCC’s~~ delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. ~~[Regional Entity]NPCC~~ shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying ~~[Regional Entity]’sNPCC’s~~ assessment and the load-serving entities’ proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of ~~[Regional Entity]’sNPCC’s~~ assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

~~{IF NERC WILL BILL AND COLLECT ASSESSMENTS DIRECTLY FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY’S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):}~~

~~(a) NERC shall submit invoices to the load-serving entities or designees identified by [Regional Entity]NPCC covering the NERC and [Regional Entity]NPCC assessments approved for collection.~~

~~{IF THE REGIONAL ENTITY WILL ACT AS THE BILLING AND COLLECTION AGENT ON BEHALF OF NERC TO BILL AND COLLECT ASSESSMENTS FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY’S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):}~~

~~(a) NERC and [Regional Entity] agree that [Regional Entity] shall act as the billing and collection agent on behalf of NERC to bill and collect [Regional Entity]’s assessments from load-serving entities and designees (or such other entities as agreed by NERC and [Regional Entity]). [Regional Entity] agrees that it shall (i) issue all invoices to load-serving entities and other entities in a prompt and timely manner after receipt from NERC of the information needed to issue the invoices; (ii) exercise commercially reasonable efforts to collect invoices that are not paid as of the due date(s); and (iii) transfer all funds collected to NERC in a timely manner, as follows: Prior to the start of each calendar quarter, and once per week thereafter until all billings for the quarter are collected, [Regional Entity]~~

~~will electronically transfer to NERC, in immediately available funds, all payments received by [Regional Entity] from load-serving entities or other entities for payment of invoices. On the same day that [Regional Entity] makes each electronic transfer of funds to NERC, [Regional Entity] shall send an email to the Chief Financial Officer or Controller of NERC detailing the collections being transmitted, including a listing of the load-serving entities or other entities from which payments were collected and the amount collected from each entity. [Note: If NERC and Regional Entity have a different collection and payment arrangement, the preceding two sentences will be modified accordingly to describe it.]~~

~~[Regional Entity] agrees that it shall not in any way use its position as billing and collection agent for NERC to attempt to influence NERC's policies or decisions on matters relating to adoption of Reliability Standards (including Regional Reliability Standards and Regional Variances), administration of the compliance monitoring and enforcement program and other compliance and enforcement matters, determination and imposition of penalties and sanctions, budgeting matters including review and approval of [Regional Entity's] budgets and business plans, or any other NERC decisions, including by issuing invoices, engaging in collection activities or transferring funds collected to NERC in an untimely manner or other than in accordance with this Agreement.~~

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from Applicable Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, ~~[Regional Entity]NPCC~~ shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, ~~[Regional Entity]NPCC~~ is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within ~~[REGIONAL ENTITY]'sNPCC's~~ region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within ~~[Regional Entity]'sNPCC's~~ region.

(c) Upon approval by Applicable Governmental Authorities of ~~[Regional Entity]'sNPCC's~~ annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay ~~[Regional Entity]'sNPCC's~~ annual assessment to ~~Regional EntityNPCC~~ in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by ~~[Regional Entity],NPCC~~, other than penalty monies received from an operational function or division or affiliated entity of ~~[Regional Entity],NPCC~~, shall be applied as a general offset to ~~[Regional Entity]'sNPCC's~~ budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational function or

division or affiliated entity of ~~[Regional Entity]~~NPCC shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for ~~[Regional Entity's]~~NPCC's Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), ~~[Regional Entity]~~NPCC's Criteria Services division performs the following other functions and activities (such other functions and activities being referred to in this Section ~~6~~ as "non-statutory activities"): ~~[List and describe all non-statutory activities performed by Regional Entity, or state "None."]~~

NPCC List of Criteria Services Division Functions (Non-Statutory Activities)

1. Regionally-specific Criteria

- NPCC develops and maintains Regionally-specific more stringent criteria
- NPCC develops and maintains criteria establishing resource adequacy requirements within the region

2. Criteria Compliance Program

- NPCC monitors and assesses compliance with its more stringent regional criteria
- NPCC conducts a Reliability Compliance and Enforcement Program (RCEP) utilizing non-monetary sanctions

~~[Regional Entity]~~NPCC shall employ the following methods and procedures to (i) keep its funding mechanisms for its Regional Entity division (statutory activities) separate from its funding mechanisms for its Criteria Services division (non- statutory activities), and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions: ~~[List and describe the methods and procedures Regional Entity employs to keep costs and funding of statutory activities separate from costs and funding of non-statutory activities, including at a minimum a description of how Regional Entity's bank accounts and receivables/payables procedures are set up for both statutory and non-statutory functions, a description of how Regional Entity ensures each employee involved in both statutory and non-statutory functions keeps accurate time records reflecting his/her activities, and a description of how Regional Entity's general and administrative costs are allocated between statutory activities and non-statutory activities. If the necessary descriptions are lengthy they may be provided in a separate attachment labeled "Attachment E-1", and state here "See Attachment E-1." If Regional Entity has listed no non-statutory functions in the preceding paragraph, state here "Not applicable."]~~

1. Funding of NPCC Criteria Services Division (non-statutory activities). A separate membership based funding mechanism is utilized for non-statutory activities.

2. NPCC procedures for separating funding and expenditures for Regional Entity division

(statutory activities) and criteria services division (non-statutory activities)

NPCC utilizes the NERC System of Accounts (NSOA) to provide consistency for account codes, divisional separation codes and activity codes. In August of 2007, NPCC CBRE (which prior to the merger performed statutory activities) merged into and with Northeast Power Coordinating Council, Inc. (referred to as NPCC) (which prior to the merger performed non-statutory activities) with the merged corporation having divisional separation for Regional Entity and Criteria Services. As recommended by NERC, NPCC uses the not-for-profit MIP Fund Accounting program by Sage Software to accurately account for income, time and labor. Effective January 1, 2008, with corporate restructuring of NPCC completed in later 2007, 2008 actual program costs are being charged to appropriate program areas.

NPCC does not conduct resource or transmission planning, is not an Independent System Operator (ISO), nor does it perform the functions of a Reliability Coordinator (RC). As such, while at this time, there is a breakout for Criteria related activities, all functions performed by NPCC are in the furtherance of NERC's statutory mission and reliability of the international bulk power system in Northeastern North America.

Methodology

NPCC's revenue and expenditure classification methodology identifies appropriate methods of accounting for income, time and costs to ensure that U.S. Federal/statutory and Canadian provincial and/or governmental authorities' agreed upon revenue and expenses are accounted for separately from NPCC's Regionally-specific Criteria development and Criteria compliance (non-statutory) income, time and expense.

Division Codes

There are two division codes that are used by NPCC in accounting for revenues and expenses. The codes are as follows:

<u>Division ID</u>	<u>Division Name</u>
<u>RE</u>	<u>Regional Entity – U.S. Statutory and Canadian Regulatory and/or Governmental Authority authorized</u>
<u>CSD</u>	<u>Criteria Services - Non-Statutory</u>

The two division codes allow NPCC to separate Regional Entity statutory activity revenues and expenses from Criteria Services non-statutory activity revenues and expenses. These categories were developed to ensure that non-statutory related revenues and expenses are segregated and accounted for separately from statutory-related revenues and expenses.

Program Codes

As required by NERC, NPCC adopted a financial accounting system consistent with NERC’s functional categories. At NPCC, functional categories are referred to as Program Codes.

There are twelve program codes that are used by NPCC in accounting for expenses. The codes are as follows:

<u>Program ID</u>	<u>Program Name</u>
<u>300</u>	<u>Reliability Standards</u>
<u>400</u>	<u>Compliance Enforcement and Organization Registration and Certification</u>
<u>800</u>	<u>Reliability Assessment and Performance Analysis</u>
<u>700</u>	<u>Reliability Readiness Evaluation and Improvement</u>
<u>900</u>	<u>Training and Education</u>
<u>1000</u>	<u>Situational Awareness and Infrastructure Security</u>
<u>ADMIN</u>	<u>General Administration</u>
<u>FINANCE</u>	<u>Accounting and Finance</u>
<u>HR</u>	<u>Human Resources</u>
<u>IT</u>	<u>Information Technology</u>
<u>LEGAL</u>	<u>Legal and Regulatory</u>
<u>MEMBERS</u>	<u>Members Forum</u>

Program codes are used to further delineate expenses into functional groupings that are assigned to program heads. NPCC staff utilize their assigned program codes (the program where they reside for payroll purposes) when coding expenses, unless otherwise authorized by management.

When time is spent in support of both statutory activities and non-statutory activities (applicable to a limited number of employees in the Administrative Services functions of General Administration, Accounting and Finance, Human resources, Information Technology, Legal and Regulatory and Members Forms), staff members develop

accurate division codes.

Divisional separation with regard to statutory activities (Regional Entity division) and non-statutory activities (Criteria Services division) is reflected in the NPCC balance sheet and general ledger through the MIP Fund Accounting software programs.

~~{Regional Entity}NPCC shall provide its budget for such non-statutory activities to NERC at the same time that {Regional Entity}NPCC submits its proposed annual business plan and budget for statutory activities request to NERC pursuant to Section 9 of the Agreement.~~
~~{Regional Entity}'s~~1. NPCC's budget for non-statutory activities that is provided to NERC shall contain a detailed list of ~~{Regional Entity}'s~~NPCC's non-statutory activities and a description of the funding sources for the non-statutory activities. ~~{Regional Entity}NPCC~~ agrees that no costs ~~(which shall include a reasonable allocation of {Regional Entity}'s general and administrative costs)~~ of non-statutory activities are to be included in the calculation of ~~{Regional Entity}'s~~ assessments, dues, fees, and otherNPCC's charges for its ~~statutory~~ activities pursuant to this Agreement.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if ~~{Regional Entity}NPCC~~ determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, ~~{Regional Entity}NPCC~~ shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in ~~{Regional Entity}'s~~NPCC's approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct ~~{Regional Entity}NPCC~~ to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~{Regional Entity}'s~~NPCC's approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Records

Upon a request made to ~~{Regional Entity}NPCC~~ with reasonable notice, NERC shall have access to and may review all financial records of ~~{Regional Entity},NPCC~~, including records used to prepare ~~{Regional Entity}'s~~NPCC's financial statements. NERC shall conduct reviews of the quarterly and annual financial statements submitted by ~~{Regional Entity}NPCC~~ pursuant to Section 9(h) and (i) of the Agreement. ~~{Regional Entity}NPCC~~ shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC.

9. Costs Associated with Cross-Regional Compliance Monitoring and Enforcement

The costs associated with any Cross-Regional Compliance Monitoring and Enforcement performed by NPCC pursuant to Section 6(f) of this Agreement with respect to registered functions of another Regional Entity are to be funded by payments from the Regional Entity

contracting with NPCC for such services, in accordance with the contract between NPCC and the other Regional Entity. Where such a contract has been entered into, NPCC will include a description of the resources it has budgeted to perform such services, and its estimated costs (including appropriate allocation of NPCC's General and Administrative costs) to perform such services, in each budget year, in NPCC's annual business plan and budget that is submitted to NERC and the Commission for approval.

**Attachment 6A: CLEAN – Revised Regional Delegation Agreement with
ReliabilityFirst Corporation**

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
AND RELIABILITYFIRST CORPORATION**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”)

Effective as of January 1, 2016, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and ReliabilityFirst Corporation (“ReliabilityFirst”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified in **Exhibit A** to this Agreement, and for other purposes. NERC and ReliabilityFirst may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824o) (hereafter “the Act”), which, among other things, provides for the establishment of an Electric Reliability Organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the

delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as ReliabilityFirst, provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, ReliabilityFirst is not organized on an Interconnection-wide basis and therefore is not entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through ReliabilityFirst to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that ReliabilityFirst meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and ReliabilityFirst, having operated under a predecessor

agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and ReliabilityFirst agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to ReliabilityFirst to propose and enforce Reliability Standards, consistent with Section 4(d) and the boundaries identified in **Exhibit A** pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. Representations.

(a) For purposes of its Delegated Authority, ReliabilityFirst hereby represents and warrants to NERC that:

(i) ReliabilityFirst is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. ReliabilityFirst is governed in accordance

with its bylaws by a combination independent and balanced stakeholder board. Pursuant to these bylaws, no two industry sectors can control any ReliabilityFirst decision and no single industry sector can veto any ReliabilityFirst decision. The relevant criteria for the establishment of such bylaws are attached hereto in **Exhibit B**. No other ReliabilityFirst corporate governance documents shall be inconsistent with the criteria in **Exhibit B**.

(ii) ReliabilityFirst has developed a standards development procedure, which provides the process that ReliabilityFirst may use to develop Regional Reliability Standards that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, ReliabilityFirst has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within ReliabilityFirst's geographic boundaries as shown in **Exhibit A**.

(b) NERC hereby represents and warrants to ReliabilityFirst that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

(iii) NERC shall comply with its Certificate of Incorporation, Bylaws and Rules of Procedure, as from time to time adopted, approved or amended.

3. General Covenants.

(a) During the term of this Agreement, ReliabilityFirst shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) ReliabilityFirst shall provide NERC with a copy of its Regional Entity Rules upon

request by NERC.

(c) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of ReliabilityFirst under this Agreement without first obtaining the consent of ReliabilityFirst, which consent shall not be unreasonably withheld or delayed.

(d) During the term of this Agreement, NERC and ReliabilityFirst shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

(e) For purposes of this Agreement, NERC shall collaborate with the Regional Entities in the development of guidance, policies and procedures, and oversight parameters as contemplated by this Agreement. In the event that collaboration is not successful on any such matter, the NERC President may issue a directive with respect to such matter pursuant to Section 8 herein, and such directive shall be binding upon ReliabilityFirst.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of ReliabilityFirst in this Agreement, ReliabilityFirst's corporate governance documents, ReliabilityFirst's standards development process, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to ReliabilityFirst for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth in **Exhibit A**, *provided*, that ReliabilityFirst shall not monitor and enforce compliance with Reliability Standards for ReliabilityFirst or an affiliated entity with respect to reliability functions for which ReliabilityFirst or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to ReliabilityFirst within, or additions to this delegation of authority to ReliabilityFirst beyond, the geographic boundaries set forth in **Exhibit A** are stated in **Exhibit A**.

(b) In circumstances where ReliabilityFirst or an affiliated entity is a Registered

Entity, ReliabilityFirst shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce ReliabilityFirst's or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit ReliabilityFirst from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified in **Exhibit A** that is within the United States. Any delegation of authority by Applicable Governmental Authorities in Canada or Mexico shall be governed by the law of such authority or a separate agreement and is outside the scope of this Agreement; provided, however, that both ReliabilityFirst and NERC shall endeavor to ensure that this Agreement and any such separate agreement are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, ReliabilityFirst shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

- (a) In connection with its Delegated Authority, ReliabilityFirst shall be entitled to:
- (i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords ReliabilityFirst reasonable notice and opportunity to be heard; and
 - (ii) develop Regional Reliability Standards through ReliabilityFirst's process. ReliabilityFirst's process shall be consistent with the NERC Rules of Procedure and Commission directives. Any changes to ReliabilityFirst's process shall be submitted to the NERC Board of Trustees for approval and upon approval, be submitted to the Commission for

approval. Proposals approved through ReliabilityFirst's process shall be reviewed by the NERC Board of Trustees after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board of Trustees shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. ReliabilityFirst may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, ReliabilityFirst shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the boundaries set forth in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and ReliabilityFirst agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, inter alia, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and

the requirements for due process. ReliabilityFirst may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, ReliabilityFirst agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board of Trustees or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) ReliabilityFirst shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual ERO Compliance Monitoring and Enforcement Program Implementation Plan.

(c) ReliabilityFirst shall report promptly to NERC information regarding noncompliance with a Reliability Standard, and its eventual disposition by ReliabilityFirst, as set forth in, and subject to the confidentiality and disclosure provisions of, the NERC Rules of Procedure, the NERC Compliance Monitoring and Enforcement Program, this Agreement, compliance and enforcement program procedures and guidance that NERC may from time to time develop and the ERO Regulations. NERC shall promptly forward such report to the Commission, as required by the ERO Regulations, or as the Commission shall from time to time direct. NERC and ReliabilityFirst shall cooperate in filing such periodic summary reports and analyses as the Commission shall from time to time direct.

(d) All dispositions by ReliabilityFirst of noncompliance with Reliability Standards shall be reported to NERC for review. NERC shall develop and implement policies and procedures for the review and, where appropriate, approval of dispositions of noncompliance.

(e) As part of its compliance monitoring and enforcement program, ReliabilityFirst shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

7. **Delegation-Related Activities.**

NERC will engage ReliabilityFirst on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed in **Exhibit E**. NERC may from time to time develop policies or procedures, which shall be used by ReliabilityFirst in the performance of the delegation-related activities. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (g), each of which shall be considered a statutory activity:

(a) **Certification of Bulk-Power System Entities.** The NERC Board of Trustees shall set criteria for certification in accordance with the NERC Rules of Procedure. Certifications shall be issued in accordance with the NERC Rules of Procedure.

(b) **Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.**

(i) The NERC Board of Trustees shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by ReliabilityFirst and other Regional Entities. ReliabilityFirst shall provide timely and accurate information relating to registrations to NERC, as needed, to enable NERC to maintain a registration database that is accurate and up-to-date and to enable NERC to satisfy its monthly reporting obligation.

(iii) The NERC Board of Trustees Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board of Trustees Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) **Reliability Assessment and Performance Analysis.** ReliabilityFirst shall

develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. ReliabilityFirst shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives, and policies and procedures related to data-gathering, quality control, forms, and reporting mechanisms that NERC may from time to time develop.

(d) **Event Analysis and Reliability Improvement.** ReliabilityFirst shall conduct event analysis pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop. NERC and ReliabilityFirst shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, ReliabilityFirst shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) **Training and Education.** ReliabilityFirst may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) **Situation Awareness.** ReliabilityFirst shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System.

(g) **Critical Infrastructure Security.** ReliabilityFirst shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of ReliabilityFirst's performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and ReliabilityFirst that matters relating to NERC's oversight of ReliabilityFirst's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and ReliabilityFirst and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with ReliabilityFirst and other Regional Entities, performance goals, performance reports, measures and other parameters (including, without limiting the scope of such goals, financial performance goals), which shall be used to measure NERC's and ReliabilityFirst's performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. ReliabilityFirst shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate ReliabilityFirst's performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters, and performance reports to evaluate ReliabilityFirst's performance of its delegated functions and related activities and to provide advice and direction to ReliabilityFirst on performance improvements. The performance goals, measures and other parameters, and the values of such goals, measures and parameters, shall be reviewed by NERC, ReliabilityFirst and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, ReliabilityFirst shall be required to develop, submit for NERC approval, and implement action plans to address, areas of its performance that are reasonably determined by NERC, based on analysis of ReliabilityFirst's performance against the performance goals, measures and parameters, or performance of

specific activities, to be unsatisfactory, *provided*, that prior to requiring ReliabilityFirst to adopt and implement an action plan or other remedial action, NERC shall issue a notice to ReliabilityFirst of the need and basis for an action plan or other remedial action and provide an opportunity for ReliabilityFirst to submit a written response contesting NERC's evaluation of ReliabilityFirst's performance and the need for an action plan. ReliabilityFirst may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board of Trustees review and reconsider the request. NERC and ReliabilityFirst shall work collaboratively as needed in the development and implementation of ReliabilityFirst's action plan. A final action plan submitted by ReliabilityFirst to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to ReliabilityFirst standardized training and education programs, which shall be designed taking into account input from ReliabilityFirst and other Regional Entities, for ReliabilityFirst personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to ReliabilityFirst concerning the manner in which ReliabilityFirst shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered "directives." NERC shall initiate the development of a directive through a collaborative process with ReliabilityFirst and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and ReliabilityFirst and, if applicable, other Regional Entities, are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, ReliabilityFirst, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by ReliabilityFirst, the NERC Board of Trustees (or a committee of the Board to which the Board

delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without ReliabilityFirst's agreement, *provided*, that ReliabilityFirst shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and ReliabilityFirst and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that it is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board of Trustees (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which ReliabilityFirst, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The NERC Board of Trustees or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the NERC Board of Trustees or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. ReliabilityFirst, either individually or in conjunction with other Regional Entities, may request that the NERC Board of Trustees or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with ReliabilityFirst, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) NERC may perform reviews of ReliabilityFirst on a reasonable periodicity to determine ReliabilityFirst's compliance with this Agreement, any policies or procedures

established by NERC, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c) and to monitor the implementation of guidance and directions issued by the NERC Board of Trustees pursuant to Section 8(d). All such periodic reviews shall comply with the NERC Rules of Procedure and Commission directives.

(g) The Commission and the Commission staff shall have full access to action plans and remedial actions, directives, and directions and guidance issued pursuant to subsections (a)(iii), (c)(iv) and (d), respectively, that are maintained as non-public.

9. Funding. ReliabilityFirst and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) ReliabilityFirst shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. ReliabilityFirst's proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, ReliabilityFirst to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E**. ReliabilityFirst's business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) ReliabilityFirst and NERC agree that the portion of ReliabilityFirst's approved budget for the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by ReliabilityFirst and approved by NERC and the Commission. If ReliabilityFirst proposes to use a formula other than Net Energy for Load beginning in the following year, ReliabilityFirst shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be

effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and ReliabilityFirst to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide ReliabilityFirst with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) ReliabilityFirst shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E**, as well as for all other activities of ReliabilityFirst, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund ReliabilityFirst's performance of its Delegated Authority and related activities in accordance with ReliabilityFirst's Commission-approved business plan and budget, in the amount of ReliabilityFirst's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting ReliabilityFirst's approved assessments from end users and other entities and payment of the approved assessment amount to ReliabilityFirst, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon ReliabilityFirst that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without ReliabilityFirst's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the

Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and ReliabilityFirst fiscal year budget with the actual results at the NERC and Regional Entity levels. ReliabilityFirst shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) ReliabilityFirst shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) ReliabilityFirst shall submit audited financial statements annually, including supporting materials, in a form provided by NERC, by no later than the date reasonably required and designated in writing by NERC to enable NERC to assemble and file the required annual budget to actual true up filing with the Commission.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which ReliabilityFirst shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of ReliabilityFirst) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which ReliabilityFirst shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of ReliabilityFirst. *Provided*, that, subject to approval by NERC and the Commission, ReliabilityFirst may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. ReliabilityFirst may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit ReliabilityFirst from contracting with other entities to assist it in carrying out its Delegated Authority, provided ReliabilityFirst retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the “Default Notice”). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on January 1, 2016 (the “Effective Date”).

(b) The term of this Agreement shall commence on the Effective Date, and shall have an initial term of five years (the “Term”), ending on December 31, 2020. Thereafter, the Term shall automatically extend for one additional five-year term unless either Party shall provide written notice of termination of this Agreement to the other no later than one year prior to the then effective expiration of the Term. In such event, this Agreement shall terminate upon the expiration of then effective Term, unless otherwise mutually agreed to by the Parties.

(c) In the event of the termination of this Agreement, the Parties shall work to provide for a transition of ReliabilityFirst’s Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement.

(d) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be

invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by ReliabilityFirst and NERC.

(e) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. ReliabilityFirst and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and ReliabilityFirst shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of ReliabilityFirst's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that ReliabilityFirst or NERC is found liable for gross negligence or intentional misconduct, in which case ReliabilityFirst or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party, except as otherwise specifically provided herein and in Section 15(c).

15. Confidentiality.

(a) During the course of the Parties' performance under this Agreement, a Party may receive proprietary, business sensitive, or critical infrastructure information ("Confidential Information") necessary to fulfill its respective obligations in connection with this Agreement. The Parties agree that their mutual objective under this provision is to provide appropriate protection for Confidential Information, while maintaining the ability to conduct their respective business activities.

(b) No obligation of confidentiality shall apply to any information that the recipient: (i) already possesses without obligation of confidentiality; (ii) develops independently; or (iii) rightfully receives without any obligation of confidentiality from a third party.

(c) The Parties may transfer or exchange such Confidential Information with and between the other Regional Entities as third-party beneficiaries of the terms of this Agreement, provided the Parties and the other Regional Entities as third-party beneficiaries continue to maintain the confidentiality of such information.

(d) Except as set forth herein and within the NERC Rules of Procedure, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party or specified third-party beneficiary of this Agreement, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party or specified third-party beneficiary of this Agreement that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party or specified third-party beneficiary of this Agreement to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party or specified third-party beneficiary of this Agreement waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information.

(e) Each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein.

(f) This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement, nor does it prohibit permitted disclosures as set forth in the NERC Rules of Procedure.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of ReliabilityFirst under this Agreement without first obtaining the consent of ReliabilityFirst, which consent shall not be unreasonably withheld or delayed. To the extent ReliabilityFirst does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of ReliabilityFirst under this Agreement, ReliabilityFirst shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by ReliabilityFirst to NERC and the Commission, or at such other time as may be mutually agreed by ReliabilityFirst and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and ReliabilityFirst (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to ReliabilityFirst's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. ReliabilityFirst shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good

faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, provided, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), provided, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. Provided, however, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. All notices, demands, requests, and other communications required, permitted by, or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand, email or overnight courier:

If to NERC:

North American Electric Reliability
Corporation
1325 G Street NW, Suite 600
Washington, DC 20005
Attn: General Counsel
Email: legal@nerc.net

If to ReliabilityFirst:

ReliabilityFirst Corporation
3 Summit Park Drive
Suite 600
Cleveland, Ohio 44131
Attn: Timothy Gallagher, President
Email: tim.gallagher@rfirst.org

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of Georgia without

giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in Georgia. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in Georgia for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. Savings Clause. Nothing in this Agreement shall be construed to preempt or limit any authority that ReliabilityFirst may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. Entire Agreement. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. Execution of Counterparts. This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

RELIABILITYFIRST CORPORATION

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A — Regional Boundaries

The Boundaries of ReliabilityFirst Corporation (ReliabilityFirst) are defined by the service territories of Load Serving Entities (LSEs) and include all of New Jersey, Delaware, Pennsylvania, Maryland, District of Columbia, West Virginia, Ohio, Indiana, Lower Michigan and portions of Upper Michigan, Wisconsin, Illinois, Kentucky, Tennessee and Virginia as shown on the map below. In addition, transmission systems and generation within the metered boundaries of the LSEs are within ReliabilityFirst even if outside the respective service territories shown. The area is electrically contiguous.

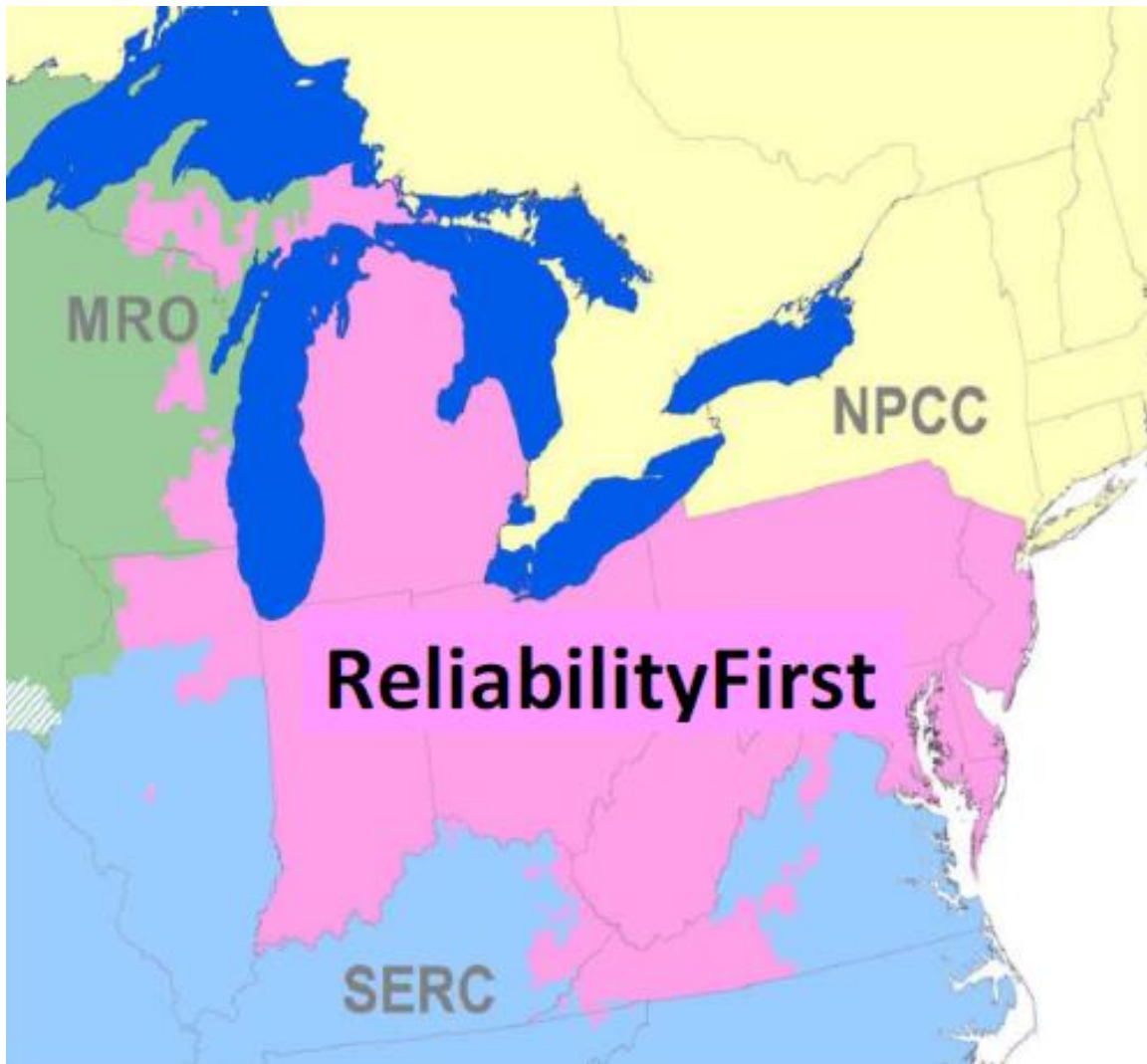


Exhibit B — Governance

The Regional Entity bylaws shall meet the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence from the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

Exhibit C [Intentionally left blank]

Exhibit D — Compliance Monitoring and Enforcement Program

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

ReliabilityFirst will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within **ReliabilityFirst's** geographic or electrical boundaries, and such other scope, set forth in **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

ReliabilityFirst, to the extent required in the Rules of Procedure, shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be either **ReliabilityFirst's** board, a committee of the board, a balanced compliance panel reporting directly to **ReliabilityFirst's** board or an independent hearing panel. **ReliabilityFirst's** hearing body is a composition of members of the **ReliabilityFirst** Compliance Committee as established by the Board of Directors of ReliabilityFirst as set out in the ReliabilityFirst Compliance Committee Charter. No two industry sectors may control any decision and no single segment may veto any matter brought before the Hearing Body either before or after any recusals or disqualifications.

To the extent required in the Rules of Procedure, **ReliabilityFirst** shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: None.

3.0 OTHER DECISION-MAKING BODIES

None.

Exhibit E — Funding

1. Scope of Activities Funded through the ERO Funding Mechanism

ReliabilityFirst shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and ReliabilityFirst, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of ReliabilityFirst's business plan and budget. The annual schedule for the preparation of business plans and budgets shall require ReliabilityFirst (i) to submit to NERC draft(s) of ReliabilityFirst's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by ReliabilityFirst Board of Trustees to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of ReliabilityFirst's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The ReliabilityFirst business plan and budget submission shall include supporting materials, including ReliabilityFirst's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. ReliabilityFirst's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve ReliabilityFirst's proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of

this **Exhibit E**, or shall direct ReliabilityFirst to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ReliabilityFirst's approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of ReliabilityFirst's delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. ReliabilityFirst shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying ReliabilityFirst's assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of ReliabilityFirst's assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

(a) NERC shall submit invoices to the load-serving entities or designees identified by ReliabilityFirst covering the NERC and ReliabilityFirst assessments approved for collection.

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from Applicable Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, ReliabilityFirst shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, ReliabilityFirst is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within ReliabilityFirst's region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within ReliabilityFirst's region.

(c) Upon approval by Applicable Governmental Authorities of ReliabilityFirst's annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay ReliabilityFirst's annual assessment to ReliabilityFirst in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by ReliabilityFirst, other than penalty monies received from an operational function or division or affiliated entity of ReliabilityFirst, shall be applied as a general offset to ReliabilityFirst's

budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of ReliabilityFirst shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for ReliabilityFirst's Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), ReliabilityFirst performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"): **None**

ReliabilityFirst shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions: **Not applicable**

ReliabilityFirst shall provide its budget for such non-statutory activities to NERC at the same time that ReliabilityFirst submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. ReliabilityFirst's budget for non-statutory activities that is provided to NERC shall contain a detailed list of ReliabilityFirst's non-statutory activities and a description of the funding sources for the non-statutory activities. ReliabilityFirst agrees that no costs (which shall include a reasonable allocation of ReliabilityFirst's general and administrative costs) of non-statutory activities are to be included in the calculation of ReliabilityFirst's assessments, dues, fees, and other charges for its statutory activities. **Not applicable**

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if ReliabilityFirst determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, ReliabilityFirst shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in ReliabilityFirst's approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct ReliabilityFirst to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ReliabilityFirst's approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Records

Upon a request made to ReliabilityFirst with reasonable notice, NERC shall have access to and may review all financial records of ReliabilityFirst, including records used to prepare ReliabilityFirst's financial statements. NERC shall conduct reviews of the quarterly and annual financial statements submitted by ReliabilityFirst pursuant to Section 9(h) and (i) of the Agreement. ReliabilityFirst shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC.

**Attachment 6B: REDLINE – Revised Regional Delegation Agreement with
ReliabilityFirst Corporation**

REDLINE TO PRO FORMA RDA

AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION AND ~~REGIONAL ENTITY~~ RELIABILITYFIRST CORPORATION

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”)

Effective as of January 1, 2016, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and ~~REGIONAL ENTITY~~, ReliabilityFirst Corporation (“ReliabilityFirst”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified in **Exhibit A** to this Agreement, and for other purposes. NERC and ~~REGIONAL ENTITY~~ ReliabilityFirst may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824o) (hereafter “the Act”), which, among other things, provides for the establishment of an Electric Reliability Organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the

delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as ~~[REGIONAL ENTITY]~~, ReliabilityFirst, provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, ~~[REGIONAL ENTITY]~~ ReliabilityFirst ~~is/is not~~ organized on an Interconnection-wide basis and therefore ~~is/is not~~ entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through ~~[REGIONAL ENTITY]~~ ReliabilityFirst to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that ~~[REGIONAL ENTITY]~~ ReliabilityFirst meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and ~~{REGIONAL ENTITY}~~ReliabilityFirst, having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and ~~{REGIONAL ENTITY}~~ReliabilityFirst agree as follows:

1. **Definitions.** The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) **Breach** means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) **Cross-Border Regional Entity** means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) **Delegated Authority** means the authority delegated by NERC to ~~{REGIONAL ENTITY}~~ReliabilityFirst to propose and enforce Reliability Standards, consistent with Section 4(d) and the boundaries identified in **Exhibit A** pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. **Representations.**

(a) For purposes of its Delegated Authority, ~~{REGIONAL ENTITY}~~ReliabilityFirst hereby represents and warrants to NERC that:

(i) ~~{REGIONAL ENTITY}~~ ReliabilityFirst is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation

prevents it from executing this Agreement and fulfilling its obligations hereunder.

~~{REGIONAL ENTITY}ReliabilityFirst~~ is governed in accordance with its bylaws by ~~{select appropriate: an independent board/a balanced stakeholder board/}~~ a combination independent and balanced stakeholder board~~}. Pursuant to these bylaws, no two industry sectors can control any {REGIONAL ENTITY}ReliabilityFirst decision and no single industry sector can veto any {REGIONAL ENTITY}ReliabilityFirst decision. The relevant criteria for the establishment of such bylaws are attached hereto in Exhibit B. No other {REGIONAL ENTITY}ReliabilityFirst corporate governance documents shall be inconsistent with the criteria in Exhibit B.~~

(ii) ~~{REGIONAL ENTITY}ReliabilityFirst~~ has developed a standards development procedure, which provides the process that ~~{REGIONAL ENTITY}ReliabilityFirst~~ may use to develop Regional Reliability Standards ~~{and Regional Variances, if the regional entity is organized on an Interconnection wide basis}~~ that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, ~~{REGIONAL ENTITY}ReliabilityFirst~~ has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within ~~{REGIONAL ENTITY}'sReliabilityFirst's~~ geographic boundaries as shown in **Exhibit A**.

(b) NERC hereby represents and warrants to ~~{REGIONAL ENTITY}ReliabilityFirst~~ that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

(iii) NERC shall comply with its Certificate of Incorporation, Bylaws and Rules of Procedure, as from time to time adopted, approved or amended.

3. General Covenants.

(a) During the term of this Agreement, ~~{REGIONAL ENTITY}ReliabilityFirst~~ shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its

Regional Entity Rules without NERC approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) ~~{REGIONAL ENTITY}~~ReliabilityFirst shall provide NERC with a copy of its Regional Entity Rules upon request by NERC.

(c) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of ~~{REGIONAL ENTITY}~~ReliabilityFirst under this Agreement without first obtaining the consent of ~~{REGIONAL ENTITY}~~ReliabilityFirst, which consent shall not be unreasonably withheld or delayed.

(d) During the term of this Agreement, NERC and ~~{REGIONAL ENTITY}~~ReliabilityFirst shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

(e) For purposes of this Agreement, NERC shall collaborate with the Regional Entities in the development of guidance, policies and procedures, and oversight parameters as contemplated by this Agreement. In the event that collaboration is not successful on any such matter, the NERC President may issue a directive with respect to such matter pursuant to Section 8 herein, and such directive shall be binding upon ~~{REGIONAL ENTITY}~~ReliabilityFirst.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of ~~{REGIONAL ENTITY}~~ReliabilityFirst in this Agreement, ~~{REGIONAL ENTITY}'s}~~ReliabilityFirst's corporate governance documents, ~~the {REGIONAL ENTITY}'s}~~ReliabilityFirst's standards development process, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to ~~{REGIONAL ENTITY}~~ReliabilityFirst for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set

forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth in **Exhibit A**, *provided*, that ~~{REGIONAL ENTITY}~~ReliabilityFirst shall not monitor and enforce compliance with Reliability Standards for ~~{REGIONAL ENTITY}~~ReliabilityFirst or an affiliated entity with respect to reliability functions for which ~~{REGIONAL ENTITY}~~ReliabilityFirst or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to ~~{REGIONAL ENTITY}~~ReliabilityFirst within, or additions to this delegation of authority to ~~{REGIONAL ENTITY}~~ReliabilityFirst beyond, the geographic boundaries set forth in **Exhibit A** are stated in **Exhibit A**.

(b) In circumstances where ~~{REGIONAL ENTITY}~~ReliabilityFirst or an affiliated entity is a Registered Entity, ~~{REGIONAL ENTITY}~~ReliabilityFirst shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce ~~{REGIONAL ENTITY}~~'sReliabilityFirst's or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit ~~{REGIONAL ENTITY}~~ReliabilityFirst from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified in **Exhibit A** that is within the United States. Any delegation of authority by Applicable Governmental Authorities in Canada or Mexico shall be governed by the law of such authority or a separate agreement and is outside the scope of this Agreement; provided, however, that both ~~{REGIONAL ENTITY}~~ReliabilityFirst and NERC shall endeavor to ensure that this Agreement and any such separate agreement are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, ~~{REGIONAL ENTITY}~~ReliabilityFirst shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, ~~{REGIONAL-ENTITY}~~ReliabilityFirst shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords ~~{REGIONAL-ENTITY}~~ReliabilityFirst reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards ~~{and Regional Variances, if Regional Entity is organized on an Interconnection-wide basis}~~ through ~~{REGIONAL-ENTITY}~~'sReliabilityFirst's process. ~~{REGIONAL-ENTITY}~~'sReliabilityFirst's process shall be consistent with the NERC Rules of Procedure and Commission directives. Any changes to ~~{REGIONAL-ENTITY}~~'sReliabilityFirst's process shall be submitted to the NERC Board of Trustees for approval and upon approval, be submitted to the Commission for approval. Proposals approved through ~~{REGIONAL-ENTITY}~~'sReliabilityFirst's process shall be reviewed by the NERC Board of Trustees after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board of Trustees shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. ~~{REGIONAL-ENTITY}~~ReliabilityFirst may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential,

and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, ~~{REGIONAL ENTITY}~~ReliabilityFirst shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the boundaries set forth in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and ~~{REGIONAL ENTITY}~~ReliabilityFirst agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, inter alia, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. ~~{REGIONAL ENTITY}~~ReliabilityFirst may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, ~~{REGIONAL ENTITY}~~ReliabilityFirst agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board of Trustees or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) ~~{REGIONAL ENTITY}~~ReliabilityFirst shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual ERO Compliance Monitoring and Enforcement Program Implementation Plan.

(c) ~~{REGIONAL ENTITY}~~ReliabilityFirst shall report promptly to NERC information regarding noncompliance with a Reliability Standard, and its eventual disposition by ~~{REGIONAL ENTITY}~~ReliabilityFirst, as set forth in, and subject to the confidentiality and disclosure provisions of, the NERC Rules of Procedure, the NERC Compliance Monitoring and

Enforcement Program, this Agreement, compliance and enforcement program procedures and guidance that NERC may from time to time develop and the ERO Regulations. NERC shall promptly forward such report to the Commission, as required by the ERO Regulations, or as the Commission shall from time to time direct. NERC and ~~[REGIONAL ENTITY]~~ReliabilityFirst shall cooperate in filing such periodic summary reports and analyses as the Commission shall from time to time direct.

(d) All dispositions by ~~[REGIONAL ENTITY]~~ReliabilityFirst of noncompliance with Reliability Standards shall be reported to NERC for review. NERC shall develop and implement policies and procedures for the review and, where appropriate, approval of dispositions of noncompliance.

(e) As part of its compliance monitoring and enforcement program, ~~[REGIONAL ENTITY]~~ReliabilityFirst shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

~~(f) — [For Regional Entities with such agreements: [REGIONAL ENTITY] may also perform compliance monitoring and enforcement activities outside of the boundaries shown in Exhibit A, on behalf of a Regional Entity that is unable to perform such activities with respect to one or more registered entities within its footprint due to a conflict of interest. Such activities shall be performed pursuant to a contract between [REGIONAL ENTITY] and other such Regional Entity that is approved by both NERC and the Commission.]~~

7. Delegation-Related Activities.

NERC will engage ~~[REGIONAL ENTITY]~~ReliabilityFirst on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed in **Exhibit E**. NERC may from time to time develop policies or procedures, which shall be used by ~~[REGIONAL ENTITY]~~ReliabilityFirst in the performance of the delegation-related activities. These delegation-related activities shall

include, but are not limited to, those described in subsections (a) through (g), each of which shall be considered a statutory activity:

(a) **Certification of Bulk-Power System Entities.** The NERC Board of Trustees shall set criteria for certification in accordance with the NERC Rules of Procedure. Certifications shall be issued in accordance with the NERC Rules of Procedure.

(b) **Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.**

(i) The NERC Board of Trustees shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by ~~REGIONAL ENTITY~~ReliabilityFirst and other Regional Entities. ~~REGIONAL ENTITY~~ReliabilityFirst shall provide timely and accurate information relating to registrations to NERC, as needed, to enable NERC to maintain a registration database that is accurate and up-to-date and to enable NERC to satisfy its monthly reporting obligation.

(iii) The NERC Board of Trustees Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board of Trustees Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) **Reliability Assessment and Performance Analysis.** ~~REGIONAL ENTITY~~ReliabilityFirst shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. ~~REGIONAL ENTITY~~ReliabilityFirst shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and

assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives, and policies and procedures related to data-gathering, quality control, forms, and reporting mechanisms that NERC may from time to time develop.

(d) **Event Analysis and Reliability Improvement.** ~~REGIONAL-ENTITY~~ReliabilityFirst shall conduct event analysis pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop. NERC and ~~REGIONAL-ENTITY~~ReliabilityFirst shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, ~~REGIONAL-ENTITY~~ReliabilityFirst shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) **Training and Education.** ~~REGIONAL-ENTITY~~ReliabilityFirst may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) **Situation Awareness.** ~~REGIONAL-ENTITY~~ReliabilityFirst shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System.

(g) **Critical Infrastructure Security.** ~~REGIONAL-ENTITY~~ReliabilityFirst shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of ~~REGIONAL-ENTITY~~'sReliabilityFirst's performance of its

Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and ~~{REGIONAL ENTITY}~~ReliabilityFirst that matters relating to NERC's oversight of ~~{REGIONAL ENTITY}~~'s ReliabilityFirst's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and ~~{REGIONAL ENTITY}~~ReliabilityFirst and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with ~~{REGIONAL ENTITY}~~ReliabilityFirst and other Regional Entities, performance goals, performance reports, measures and other parameters (including, without limiting the scope of such goals, financial performance goals), which shall be used to measure NERC's and ~~{REGIONAL ENTITY}~~'s ReliabilityFirst's performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. ~~{REGIONAL ENTITY}~~ReliabilityFirst shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate ~~{REGIONAL ENTITY}~~'s ReliabilityFirst's performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters, and performance reports to evaluate ~~{REGIONAL ENTITY}~~'s ReliabilityFirst's performance of its delegated functions and related activities and to provide advice and direction to ~~{REGIONAL ENTITY}~~ReliabilityFirst on performance improvements. The performance goals, measures and other parameters, and the values of such goals, measures and parameters, shall be reviewed by NERC, ~~{REGIONAL ENTITY}~~ReliabilityFirst and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, ~~{REGIONAL ENTITY}~~ReliabilityFirst shall be required to develop, submit for NERC approval, and implement action plans to address, areas of its performance that are reasonably determined by NERC, based on analysis of ~~{REGIONAL ENTITY}~~'s ReliabilityFirst's performance against the

performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring ~~{REGIONAL ENTITY}~~ReliabilityFirst to adopt and implement an action plan or other remedial action, NERC shall issue a notice to ~~{REGIONAL ENTITY}~~ReliabilityFirst of the need and basis for an action plan or other remedial action and provide an opportunity for ~~{REGIONAL ENTITY}~~ReliabilityFirst to submit a written response contesting NERC's evaluation of ~~{REGIONAL ENTITY}~~'sReliabilityFirst's performance and the need for an action plan. ~~{REGIONAL ENTITY}~~ReliabilityFirst may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board of Trustees review and reconsider the request. NERC and ~~{REGIONAL ENTITY}~~ReliabilityFirst shall work collaboratively as needed in the development and implementation of ~~{REGIONAL ENTITY}~~'sReliabilityFirst's action plan. A final action plan submitted by ~~{REGIONAL ENTITY}~~ReliabilityFirst to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to ~~{REGIONAL ENTITY}~~ReliabilityFirst standardized training and education programs, which shall be designed taking into account input from ~~{REGIONAL ENTITY}~~ReliabilityFirst and other Regional Entities, for ~~{REGIONAL ENTITY}~~ReliabilityFirst personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to ~~{REGIONAL ENTITY}~~ReliabilityFirst concerning the manner in which ~~{REGIONAL ENTITY}~~ReliabilityFirst shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered "directives." NERC shall initiate the development of a directive through a collaborative process with ~~{REGIONAL ENTITY}~~ReliabilityFirst and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and ~~{REGIONAL ENTITY}~~ReliabilityFirst and, if applicable, other Regional Entities, are

unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, ~~{REGIONAL ENTITY}~~,ReliabilityFirst, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by ~~{REGIONAL ENTITY}~~,ReliabilityFirst, the NERC Board of Trustees (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without ~~{REGIONAL ENTITY}~~'sReliabilityFirst's agreement, *provided*, that ~~{REGIONAL ENTITY}~~ReliabilityFirst shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and ~~{REGIONAL ENTITY}~~,ReliabilityFirst and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that it is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board of Trustees (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which ~~{REGIONAL ENTITY}~~,ReliabilityFirst, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The NERC Board of Trustees or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the NERC Board of Trustees or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. ~~{REGIONAL ENTITY}~~,ReliabilityFirst, either individually or in conjunction with other Regional Entities,

may request that the NERC Board of Trustees or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with ~~[REGIONAL ENTITY]~~ReliabilityFirst, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) NERC may perform reviews of ~~[REGIONAL ENTITY]~~ReliabilityFirst on a reasonable periodicity to determine ~~[REGIONAL ENTITY]~~ReliabilityFirst's compliance with this Agreement, any policies or procedures established by NERC, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c) and to monitor the implementation of guidance and directions issued by the NERC Board of Trustees pursuant to Section 8(d). All such periodic reviews shall comply with the NERC Rules of Procedure and Commission directives.

(g) The Commission and the Commission staff shall have full access to action plans and remedial actions, directives, and directions and guidance issued pursuant to subsections (a)(iii), (c)(iv) and (d), respectively, that are maintained as non-public.

9. Funding. ~~[REGIONAL ENTITY]~~ReliabilityFirst and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) ~~[REGIONAL ENTITY]~~ReliabilityFirst shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. ~~[REGIONAL ENTITY]~~ReliabilityFirst's proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, ~~[REGIONAL ENTITY]~~ReliabilityFirst to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E**. ~~[REGIONAL ENTITY]~~ReliabilityFirst's business plan and budget shall show the

funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) ~~[REGIONAL ENTITY]~~ReliabilityFirst and NERC agree that the portion of ~~[REGIONAL ENTITY]'s~~ReliabilityFirst's approved budget for the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by ~~[REGIONAL ENTITY]~~ReliabilityFirst and approved by NERC and the Commission. If ~~[REGIONAL ENTITY]~~ReliabilityFirst proposes to use a formula other than Net Energy for Load beginning in the following year, ~~[REGIONAL ENTITY]~~ReliabilityFirst shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and ~~[REGIONAL ENTITY]~~ReliabilityFirst to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide ~~[REGIONAL ENTITY]~~ReliabilityFirst with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) ~~[REGIONAL ENTITY]~~ReliabilityFirst shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E**, as well as for all other activities of ~~[REGIONAL ENTITY]~~ReliabilityFirst, to NERC for review and approval in accordance with

the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund ~~{REGIONAL ENTITY}'s~~ReliabilityFirst's performance of its Delegated Authority and related activities in accordance with ~~{REGIONAL ENTITY}'s~~ReliabilityFirst's Commission-approved business plan and budget, in the amount of ~~{REGIONAL ENTITY}'s~~ReliabilityFirst's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting ~~{REGIONAL ENTITY}'s~~ReliabilityFirst's approved assessments from end users and other entities and payment of the approved assessment amount to ~~{REGIONAL ENTITY},~~ReliabilityFirst, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon ~~{REGIONAL ENTITY}~~ReliabilityFirst that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without ~~{REGIONAL ENTITY}'s~~ReliabilityFirst's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and ~~{REGIONAL ENTITY}~~ReliabilityFirst fiscal year budget with the actual results at the NERC and Regional Entity levels. ~~{REGIONAL ENTITY}~~ReliabilityFirst shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) ~~{REGIONAL ENTITY}~~ReliabilityFirst shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) ~~{REGIONAL ENTITY}~~ReliabilityFirst shall submit audited financial statements annually, including supporting materials, in a form provided by NERC, by no later than the date reasonably required and designated in writing by NERC to enable NERC to assemble and file the required annual budget to actual true up filing with the Commission.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which ~~{REGIONAL ENTITY}~~ReliabilityFirst shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of ~~{REGIONAL ENTITY}~~ReliabilityFirst) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which ~~{REGIONAL ENTITY}~~ReliabilityFirst shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of ~~{REGIONAL ENTITY}~~ReliabilityFirst. *Provided*, that, subject to approval by NERC and the Commission, ~~{REGIONAL ENTITY}~~ReliabilityFirst may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. ~~{REGIONAL ENTITY}~~ReliabilityFirst may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit ~~{REGIONAL ENTITY}~~ReliabilityFirst from contracting with other entities to assist it in carrying out its Delegated Authority, provided ~~{REGIONAL ENTITY}~~ReliabilityFirst retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for

herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on ~~January 1, 2016~~ (the “Effective Date”).

(b) The term of this Agreement shall commence on the Effective Date, and shall have an initial term of five years (the “Term”), ending on December 31, 2020. Thereafter, the Term shall automatically extend for one additional five-year term unless either Party shall provide written notice of termination of this Agreement to the other no later than one year prior to the then effective expiration of the Term. In such event, this Agreement shall terminate upon the expiration of then effective Term, unless otherwise mutually agreed to by the Parties.

(c) In the event of the termination of this Agreement, the Parties shall work to provide for a transition of ~~[REGIONAL ENTITY]’s~~ReliabilityFirst’s Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement.

(d) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by ~~[REGIONAL-~~

~~ENTITY~~ReliabilityFirst and NERC.

(e) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. ~~REGIONAL ENTITY~~ReliabilityFirst and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and ~~REGIONAL ENTITY~~ReliabilityFirst shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of ~~REGIONAL ENTITY~~'sReliabilityFirst's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that ~~REGIONAL ENTITY~~ReliabilityFirst or NERC is found liable for gross negligence or intentional misconduct, in which case ~~REGIONAL ENTITY~~ReliabilityFirst or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party, except as otherwise specifically provided herein and in Section 15(c).

15. Confidentiality.

(a) During the course of the Parties' performance under this Agreement, a Party may receive proprietary, business sensitive, or critical infrastructure information ("Confidential Information") necessary to fulfill its respective obligations in connection with this Agreement. The Parties agree that their mutual objective under this provision is to provide appropriate protection for Confidential Information, while maintaining the ability to conduct their

respective business activities.

(b) No obligation of confidentiality shall apply to any information that the recipient: (i) already possesses without obligation of confidentiality; (ii) develops independently; or (iii) rightfully receives without any obligation of confidentiality from a third party.

(c) The Parties may transfer or exchange such Confidential Information with and between the other Regional Entities as third-party beneficiaries of the terms of this Agreement, provided the Parties and the other Regional Entities as third-party beneficiaries continue to maintain the confidentiality of such information.

(d) Except as set forth herein and within the NERC Rules of Procedure, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party or specified third-party beneficiary of this Agreement, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party or specified third-party beneficiary of this Agreement that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party or specified third-party beneficiary of this Agreement to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party or specified third-party beneficiary of this Agreement waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information.

(e) Each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein.

(f) This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement, nor does it prohibit permitted

disclosures as set forth in the NERC Rules of Procedure.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of ~~{REGIONAL ENTITY}~~ReliabilityFirst under this Agreement without first obtaining the consent of ~~{REGIONAL ENTITY}~~,ReliabilityFirst, which consent shall not be unreasonably withheld or delayed. To the extent ~~{REGIONAL ENTITY}~~ReliabilityFirst does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of ~~{REGIONAL ENTITY}~~ReliabilityFirst under this Agreement, ~~{REGIONAL ENTITY}~~ReliabilityFirst shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by ~~{REGIONAL ENTITY}~~ReliabilityFirst to NERC and the Commission, or at such other time as may be mutually agreed by ~~{REGIONAL ENTITY}~~ReliabilityFirst and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and ~~{REGIONAL ENTITY}~~ReliabilityFirst (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to ~~{REGIONAL ENTITY}~~'sReliabilityFirst's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. ~~{REGIONAL ENTITY}~~ ReliabilityFirst shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute

Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, provided, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), provided, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. Provided, however, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. All notices, demands, requests, and other communications required, permitted by, or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand, email or overnight courier:

If to NERC:

North American Electric Reliability Corporation
1325 G Street NW, Suite 600
Washington, DC 20005
Attn: General Counsel
Email: legal@nerc.net

If to ~~[REGIONAL ENTITY]~~ReliabilityFirst:

ReliabilityFirst Corporation
3 Summit Park Drive
Suite 600
Cleveland, Ohio 44131
Attn: Timothy Gallagher, President
Email: tim.gallagher@rfirst.org

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of Georgia without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from

exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in Georgia. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in Georgia for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. Savings Clause. Nothing in this Agreement shall be construed to preempt or limit any authority that ~~[REGIONAL ENTITY]~~ReliabilityFirst may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. Entire Agreement. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. Execution of Counterparts. This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

~~REGIONAL~~
~~ENTITY~~ RELIABILITYFIRST
CORPORATION

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A — Regional Boundaries

~~Exhibit A to the delegation agreement for each Regional Entity receiving Delegated Authority shall describe the geographic or electrical boundaries covered by the proposed delegation of authority. Exhibit A for each Regional Entity shall reflect coordination with neighboring Regional Entities, as appropriate, to ensure that all relevant areas are either included within the geographic boundaries of a Regional Entity or specifically identified as not being within the geographic boundaries of any Regional Entity. Any exclusions of geographic or electrical areas or of Registered Entities from the scope of the Regional Entity's Delegated Authority within the geographic or electrical boundaries shown in Exhibit A, and any additions of geographic or electrical areas or of Registered Entities located outside the boundaries shown in Exhibit A to the scope of the Regional Entity's Delegated Authority, shall be specifically stated or described in Exhibit A.~~

The Boundaries of ReliabilityFirst Corporation (ReliabilityFirst) are defined by the service territories of Load Serving Entities (LSEs) and include all of New Jersey, Delaware, Pennsylvania, Maryland, District of Columbia, West Virginia, Ohio, Indiana, Lower Michigan and portions of Upper Michigan, Wisconsin, Illinois, Kentucky, Tennessee and Virginia as shown on the map below. In addition, transmission systems and generation within the metered boundaries of the LSEs are within ReliabilityFirst even if outside the respective service territories shown. The area is electrically contiguous.

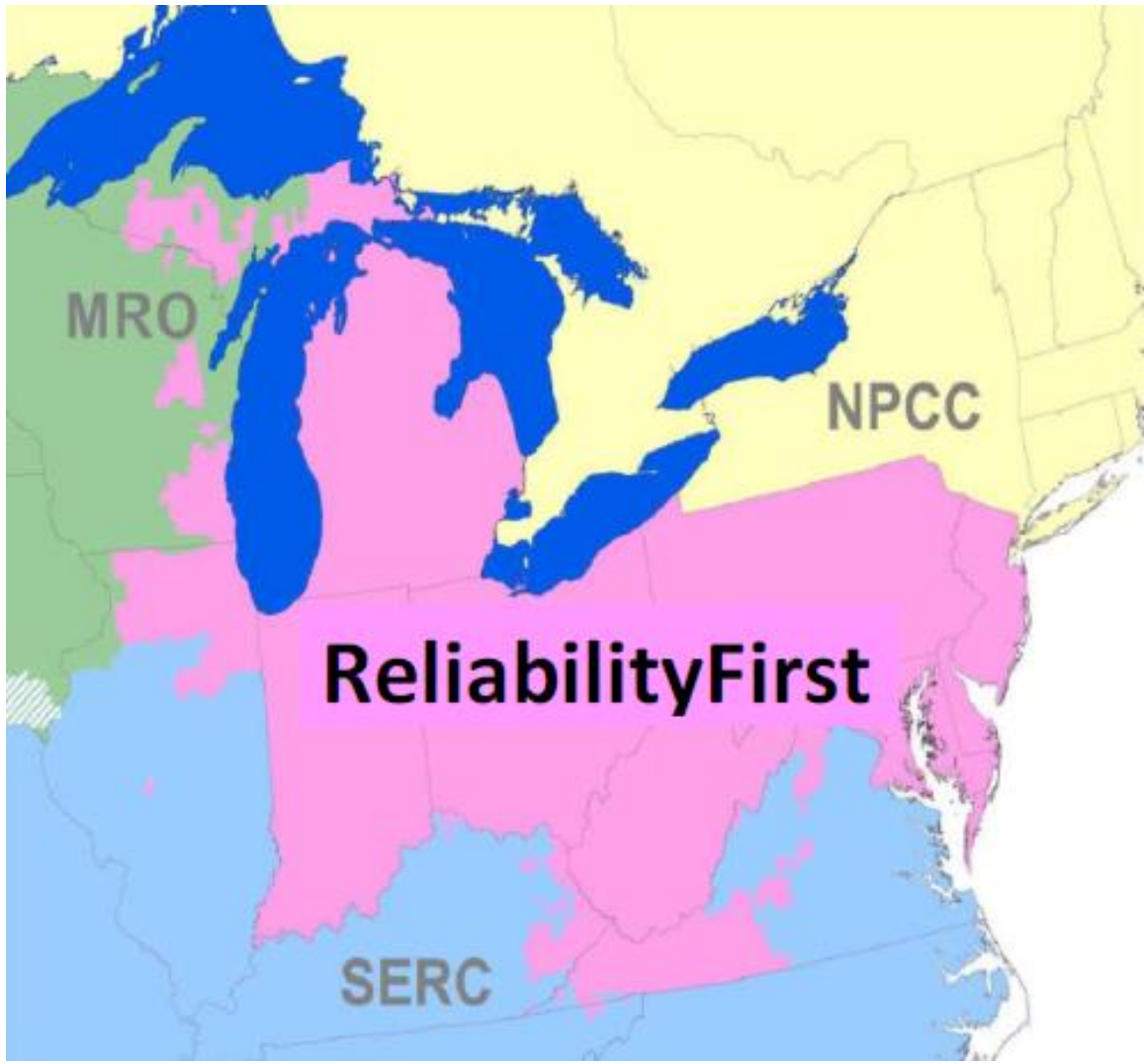


Exhibit B — Governance

The Regional Entity bylaws shall meet the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence from the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

Exhibit C [Intentionally left blank]

Exhibit D — Compliance Monitoring and Enforcement Program

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

~~[REGIONAL ENTITY]~~ReliabilityFirst will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within ~~[REGIONAL ENTITY]'s~~ReliabilityFirst's geographic or electrical boundaries, and such other scope, set forth in **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

~~[REGIONAL ENTITY]~~ReliabilityFirst, to the extent required in the Rules of Procedure, shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be either ~~[REGIONAL ENTITY]'s~~ReliabilityFirst's board, a committee of the board, a balanced compliance panel reporting directly to ~~[REGIONAL ENTITY]'s~~ReliabilityFirst's board or an independent hearing panel. ~~[REGIONAL ENTITY]'s~~ReliabilityFirst's hearing body is a composition of members of the ReliabilityFirst Compliance Committee as established by the Board of Directors of ReliabilityFirst as set out in the ReliabilityFirst Compliance Committee Charter. No two industry sectors may control any decision and no single segment may veto any matter brought before the Hearing Body either before or after any recusals or disqualifications. [its board] [if not the board, insert the name of the committee or group serving as the hearing body].

~~[If the hearing body is a compliance panel other than the board, provide here a description of how the members of the compliance panel are selected and the qualifications to be selected for the compliance panel.]~~

To the extent required in the Rules of Procedure, ~~[REGIONAL ENTITY]~~ReliabilityFirst shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: ~~[Describe any deviations, or state "None." If there are deviations from the NERC pro forma Hearing Procedures, [REGIONAL ENTITY]'s Hearing Procedures shall be included as a separate attachment to this Exhibit D.]None.~~

3.0 OTHER DECISION-MAKING BODIES

~~If [REGIONAL ENTITY] uses other decision-making bodies within its compliance program, provide here a description of the function of that body to the extent not described elsewhere in the Agreement or exhibits, how the members of that body are selected, and the qualifications to be selected for that body.] None.~~

Exhibit E — Funding

1. Scope of Activities Funded through the ERO Funding Mechanism

~~{Regional Entity}ReliabilityFirst~~ shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and ~~{Regional Entity},ReliabilityFirst~~, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of ~~{Regional Entity's}ReliabilityFirst's~~ business plan and budget. The annual schedule for the preparation of business plans and budgets shall require ~~{Regional Entity}ReliabilityFirst~~ (i) to submit to NERC draft(s) of ~~{Regional Entity's}ReliabilityFirst's~~ proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by ~~{Regional Entity}ReliabilityFirst~~ Board of Trustees to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of ~~{Regional Entity's}ReliabilityFirst's~~ business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The ~~{Regional Entity}ReliabilityFirst~~ business plan and budget submission shall include supporting materials, including ~~{Regional Entity's}ReliabilityFirst's~~ complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. ~~{Regional Entity's}ReliabilityFirst's~~ business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve ~~{Regional Entity's}ReliabilityFirst's~~ proposed

business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct ~~{Regional Entity}~~ReliabilityFirst to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~{Regional Entity}'s~~ReliabilityFirst's approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of ~~{REGIONAL ENTITY}'s~~ReliabilityFirst's delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. ~~{Regional Entity}~~ReliabilityFirst shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying ~~{Regional Entity's}~~ReliabilityFirst's assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of ~~{Regional Entity's}~~ReliabilityFirst's assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

~~{IF NERC WILL BILL AND COLLECT ASSESSMENTS DIRECTLY FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):}~~

(a) NERC shall submit invoices to the load-serving entities or designees identified by ~~{Regional Entity}~~ReliabilityFirst covering the NERC and ~~{Regional Entity}~~ReliabilityFirst assessments approved for collection.

~~{IF THE REGIONAL ENTITY WILL ACT AS THE BILLING AND COLLECTION AGENT ON BEHALF OF NERC TO BILL AND COLLECT ASSESSMENTS FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):}~~

~~(a) ——— NERC and {Regional Entity} agree that {Regional Entity} shall act as the billing and collection agent on behalf of NERC to bill and collect {Regional Entity}'s assessments from load-serving entities and designees (or such other entities as agreed by NERC and {Regional Entity}). {Regional Entity} agrees that it shall (i) issue all invoices to load-serving entities and other entities in a prompt and timely manner after receipt from NERC of the information needed to issue the invoices; (ii) exercise commercially reasonable efforts to collect invoices that are not paid as of the due date(s); and (iii) transfer all funds collected to NERC in a timely manner, as follows: Prior to the start of each calendar quarter,~~

~~and once per week thereafter until all billings for the quarter are collected, [Regional Entity] will electronically transfer to NERC, in immediately available funds, all payments received by [Regional Entity] from load-serving entities or other entities for payment of invoices. On the same day that [Regional Entity] makes each electronic transfer of funds to NERC, [Regional Entity] shall send an email to the Chief Financial Officer or Controller of NERC detailing the collections being transmitted, including a listing of the load-serving entities or other entities from which payments were collected and the amount collected from each entity. [Note: If NERC and Regional Entity have a different collection and payment arrangement, the preceding two sentences will be modified accordingly to describe it.]~~

~~[Regional Entity] agrees that it shall not in any way use its position as billing and collection agent for NERC to attempt to influence NERC's policies or decisions on matters relating to adoption of Reliability Standards (including Regional Reliability Standards and Regional Variances), administration of the compliance monitoring and enforcement program and other compliance and enforcement matters, determination and imposition of penalties and sanctions, budgeting matters including review and approval of [Regional Entity's] budgets and business plans, or any other NERC decisions, including by issuing invoices, engaging in collection activities or transferring funds collected to NERC in an untimely manner or other than in accordance with this Agreement.~~

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from Applicable Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, ~~[Regional Entity]~~ReliabilityFirst shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, ~~[Regional Entity]~~ReliabilityFirst is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within ~~[REGIONAL ENTITY]'s~~ReliabilityFirst's region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within ~~[Regional Entity]'s~~ReliabilityFirst's region.

(c) Upon approval by Applicable Governmental Authorities of ~~[Regional Entity]'s~~ReliabilityFirst's annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay ~~[Regional Entity's]~~ReliabilityFirst's annual assessment to ~~Regional Entity~~ReliabilityFirst in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by ~~[Regional Entity]~~ReliabilityFirst, other than penalty monies received from an operational function or division or affiliated entity of ~~[Regional Entity]~~ReliabilityFirst, shall be applied as a general offset to ~~[Regional Entity]'s~~ReliabilityFirst's budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity.

Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of ~~{Regional Entity}~~ReliabilityFirst shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for ~~{Regional Entity's}~~ReliabilityFirst's Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), ~~{Regional Entity}~~ReliabilityFirst performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"): ~~{List and describe all non-statutory activities performed by Regional Entity, or state "None."}~~**None**

~~{Regional Entity}~~ReliabilityFirst shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions: ~~{List and describe the methods and procedures Regional Entity employs to keep costs and funding of statutory activities separate from costs and funding of non-statutory activities, including at a minimum a description of how Regional Entity's bank accounts and receivables/payables procedures are set up for both statutory and non-statutory functions, a description of how Regional Entity ensures each employee involved in both statutory and non-statutory functions keeps accurate time records reflecting his/her activities, and a description of how Regional Entity's general and administrative costs are allocated between statutory activities and non-statutory activities. If the necessary descriptions are lengthy they may be provided in a separate attachment labeled "Attachment E-1", and state here "See Attachment E-1." If Regional Entity has listed no non-statutory functions in the preceding paragraph, state here "Not applicable."}~~**Not applicable**

~~{Regional Entity}~~ReliabilityFirst shall provide its budget for such non-statutory activities to NERC at the same time that ~~{Regional Entity}~~ReliabilityFirst submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. ~~{Regional Entity's}~~ReliabilityFirst's budget for non-statutory activities that is provided to NERC shall contain a detailed list of ~~{Regional Entity's}~~ReliabilityFirst's non-statutory activities and a description of the funding sources for the non-statutory activities. ~~{Regional Entity}~~ReliabilityFirst agrees that no costs (which shall include a reasonable allocation of ~~{Regional Entity's}~~ReliabilityFirst's general and administrative costs) of non-statutory activities are to be included in the calculation of ~~{Regional Entity's}~~ReliabilityFirst's assessments, dues, fees, and other charges for its statutory activities. **Not applicable**

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if ~~{Regional Entity}~~ReliabilityFirst determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, ~~{Regional Entity}~~ReliabilityFirst shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in ~~{Regional Entity}~~'sReliabilityFirst's approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct ~~{Regional Entity}~~ReliabilityFirst to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~{Regional Entity}~~'sReliabilityFirst's approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Records

Upon a request made to ~~{Regional Entity}~~ReliabilityFirst with reasonable notice, NERC shall have access to and may review all financial records of ~~{Regional Entity}~~ReliabilityFirst, including records used to prepare ~~{Regional Entity}~~'sReliabilityFirst's financial statements. NERC shall conduct reviews of the quarterly and annual financial statements submitted by ~~{Regional Entity}~~ReliabilityFirst pursuant to Section 9(h) and (i) of the Agreement. ~~{Regional Entity}~~ReliabilityFirst shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC.

**Attachment 7A: CLEAN – Revised Regional Delegation Agreement with
SERC Reliability Corporation**

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
AND SERC RELIABILITY CORPORATION**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”)

Effective as of January 1, 2016, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and SERC Reliability Corporation (“SERC”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified in **Exhibit A** to this Agreement, and for other purposes. NERC and SERC may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824o) (hereafter “the Act”), which, among other things, provides for the establishment of an Electric Reliability Organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as SERC, provided that:

Amended and Restated SERC Regional Delegation Agreement

- (A) The Regional Entity is governed by —
 - (i) an independent board;
 - (ii) a balanced stakeholder board; or
 - (iii) a combination independent and balanced stakeholder board.
- (B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and
- (C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, SERC is not organized on an Interconnection-wide basis and therefore is not entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through SERC to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that SERC meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and SERC, having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the

predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and SERC agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to SERC to propose and enforce Reliability Standards, consistent with Section 4(d) and the boundaries identified in **Exhibit A** pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. Representations.

(a) For purposes of its Delegated Authority, SERC hereby represents and warrants to NERC that:

(i) SERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. SERC is governed in accordance with its bylaws by a balanced stakeholder board. Pursuant to these bylaws, no two industry sectors can control any SERC decision and no single industry sector can veto any SERC decision. The relevant criteria

for the establishment of such bylaws are attached hereto in **Exhibit B**. No other SERC corporate governance documents shall be inconsistent with the criteria in **Exhibit B**.

(ii) SERC has developed a standards development procedure, which provides the process that SERC may use to develop Regional Reliability Standards that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, SERC has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within SERC's geographic boundaries as shown in **Exhibit A**.

(b) NERC hereby represents and warrants to SERC that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

(iii) NERC shall comply with its Certificate of Incorporation, Bylaws and Rules of Procedure, as from time to time adopted, approved or amended.

3. General Covenants.

(a) During the term of this Agreement, SERC shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) SERC shall provide NERC with a copy of its Regional Entity Rules upon request by NERC.

(c) During the term of this Agreement, NERC shall maintain its qualification and

status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of SERC under this Agreement without first obtaining the consent of SERC, which consent shall not be unreasonably withheld or delayed.

(d) During the term of this Agreement, NERC and SERC shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

(e) For purposes of this Agreement, NERC shall collaborate with the Regional Entities in the development of guidance, policies and procedures, and oversight parameters as contemplated by this Agreement. In the event that collaboration is not successful on any such matter, the NERC President may issue a directive with respect to such matter pursuant to Section 8 herein, and such directive shall be binding upon SERC.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of SERC in this Agreement, SERC's corporate governance documents, the SERC's standards development process, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to SERC for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth in **Exhibit A**, provided, that SERC shall not monitor and enforce compliance with Reliability Standards for SERC or an affiliated entity with respect to reliability functions for which SERC or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to SERC within, or additions to this delegation of authority to SERC beyond, the geographic boundaries set forth in **Exhibit A** are stated in **Exhibit A**.

(b) In circumstances where SERC or an affiliated entity is a Registered Entity, SERC shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce SERC's or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit SERC from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified in **Exhibit A** that is within the United States. Any delegation of authority by Applicable Governmental Authorities in Canada or Mexico shall be governed by the law of such authority or a separate agreement and is outside the scope of this Agreement; provided, however, that both SERC and NERC shall endeavor to ensure that this Agreement and any such separate agreement are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, SERC shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, SERC shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords SERC reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards through SERC's process. SERC's process shall be consistent with the NERC Rules of Procedure and Commission directives. Any changes to SERC's process shall be submitted to the NERC Board of Trustees for approval and upon approval, be submitted to the Commission for approval. Proposals approved through SERC's process shall be reviewed by the NERC Board of Trustees after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time.

The NERC Board of Trustees shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. SERC may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, SERC shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the boundaries set forth in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and SERC agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, inter alia, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. SERC may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, SERC agrees to comply with the NERC Rules of Procedure, with any

directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board of Trustees or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) SERC shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual ERO Compliance Monitoring and Enforcement Program Implementation Plan.

(c) SERC shall report promptly to NERC information regarding noncompliance with a Reliability Standard, and its eventual disposition by SERC, as set forth in, and subject to the confidentiality and disclosure provisions of, the NERC Rules of Procedure, the NERC Compliance Monitoring and Enforcement Program, this Agreement, compliance and enforcement program procedures and guidance that NERC may from time to time develop and the ERO Regulations. NERC shall promptly forward such report to the Commission, as required by the ERO Regulations, or as the Commission shall from time to time direct. NERC and SERC shall cooperate in filing such periodic summary reports and analyses as the Commission shall from time to time direct.

(d) All dispositions by SERC of noncompliance with Reliability Standards shall be reported to NERC for review. NERC shall develop and implement policies and procedures for the review and, where appropriate, approval of dispositions of noncompliance.

(e) As part of its compliance monitoring and enforcement program, SERC shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

(f) SERC may also perform compliance monitoring and enforcement activities outside of the boundaries shown in **Exhibit A**, on behalf of a Regional Entity that is unable to perform such activities with respect to one or more registered entities within its footprint due to a conflict

of interest. Such activities shall be performed pursuant to a contract between SERC and other such Regional Entity that is approved by both NERC and the Commission.

7. Delegation-Related Activities.

NERC will engage SERC on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed in **Exhibit E**. NERC may from time to time develop policies or procedures, which shall be used by SERC in the performance of the delegation-related activities. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (g), each of which shall be considered a statutory activity:

(a) **Certification of Bulk-Power System Entities.** The NERC Board of Trustees shall set criteria for certification in accordance with the NERC Rules of Procedure. Certifications shall be issued in accordance with the NERC Rules of Procedure.

(b) **Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.**

(i) The NERC Board of Trustees shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by SERC and other Regional Entities. SERC shall provide timely and accurate information relating to registrations to NERC, as needed, to enable NERC to maintain a registration database that is accurate and up-to-date and to enable NERC to satisfy its monthly reporting obligation.

(iii) The NERC Board of Trustees Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board of Trustees Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to

the Commission.

(c) **Reliability Assessment and Performance Analysis.** SERC shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. SERC shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives, and policies and procedures related to data-gathering, quality control, forms, and reporting mechanisms that NERC may from time to time develop.

(d) **Event Analysis and Reliability Improvement.** SERC shall conduct event analysis pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop. NERC and SERC shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, SERC shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) **Training and Education.** SERC may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) **Situation Awareness.** SERC shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System.

(g) **Critical Infrastructure Security.** SERC shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of

the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of SERC's performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and SERC that matters relating to NERC's oversight of SERC's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and SERC and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with SERC and other Regional Entities, performance goals, performance reports, measures and other parameters (including, without limiting the scope of such goals, financial performance goals), which shall be used to measure NERC's and SERC's performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. SERC shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate SERC's performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters, and performance reports to evaluate SERC's performance of its delegated functions and related activities and to provide advice and direction to SERC on performance improvements. The performance goals, measures and other parameters, and the values of such goals, measures and parameters, shall be reviewed by NERC, SERC and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, SERC shall be required to develop, submit for NERC approval, and implement action plans to address, areas of its performance that are reasonably determined by NERC, based on analysis of SERC's performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring SERC to adopt and

implement an action plan or other remedial action, NERC shall issue a notice to SERC of the need and basis for an action plan or other remedial action and provide an opportunity for SERC to submit a written response contesting NERC's evaluation of SERC's performance and the need for an action plan. SERC may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board of Trustees review and reconsider the request. NERC and SERC shall work collaboratively as needed in the development and implementation of SERC's action plan. A final action plan submitted by SERC to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to SERC standardized training and education programs, which shall be designed taking into account input from SERC and other Regional Entities, for SERC personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to SERC concerning the manner in which SERC shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered "directives." NERC shall initiate the development of a directive through a collaborative process with SERC and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and SERC and, if applicable, other Regional Entities, are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, SERC, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by SERC, the NERC Board of Trustees (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without SERC's agreement, *provided*, that SERC shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good

cause can be shown for a later request.

(iv) NERC and SERC and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that it is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board of Trustees (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which SERC, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The NERC Board of Trustees or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the NERC Board of Trustees or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. SERC, either individually or in conjunction with other Regional Entities, may request that the NERC Board of Trustees or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with SERC, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) NERC may perform reviews of SERC on a reasonable periodicity to determine SERC's compliance with this Agreement, any policies or procedures established by NERC, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c) and to monitor the implementation of guidance and directions issued by the NERC Board of Trustees

pursuant to Section 8(d). All such periodic reviews shall comply with the NERC Rules of Procedure and Commission directives.

(g) The Commission and the Commission staff shall have full access to action plans and remedial actions, directives, and directions and guidance issued pursuant to subsections (a)(iii), (c)(iv) and (d), respectively, that are maintained as non-public.

9. Funding. SERC and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) SERC shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. SERC's proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, SERC to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E**. SERC's business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) SERC and NERC agree that the portion of SERC's approved budget for the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by SERC and approved by NERC and the Commission. If SERC proposes to use a formula other than Net Energy for Load beginning in the following year, SERC shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and SERC to the Commission pursuant to the ERO Regulations

for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide SERC with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) SERC shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E**, as well as for all other activities of SERC, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund SERC's performance of its Delegated Authority and related activities in accordance with SERC's Commission- approved business plan and budget, in the amount of SERC's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting SERC's approved assessments from end users and other entities and payment of the approved assessment amount to SERC, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon SERC that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without SERC's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and SERC fiscal year budget with the actual results at the

NERC and Regional Entity levels. SERC shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) SERC shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) SERC shall submit audited financial statements annually, including supporting materials, in a form provided by NERC, by no later than the date reasonably required and designated in writing by NERC to enable NERC to assemble and file the required annual budget to actual true up filing with the Commission.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which SERC shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of SERC) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which SERC shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of SERC. *Provided*, that, subject to approval by NERC and the Commission, SERC may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. SERC may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit SERC from contracting with other entities to assist it in carrying out its Delegated Authority, provided SERC retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the

following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on January 1, 2016 (the “Effective Date”).

(b) The term of this Agreement shall commence on the Effective Date, and shall have an initial term of five years (the “Term”), ending on December 31, 2020. Thereafter, the Term shall automatically extend for one additional five-year term unless either Party shall provide written notice of termination of this Agreement to the other no later than one year prior to the then effective expiration of the Term. In such event, this Agreement shall terminate upon the expiration of then effective Term, unless otherwise mutually agreed to by the Parties.

(c) In the event of the termination of this Agreement, the Parties shall work to provide for a transition of SERC’s Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement.

(d) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor

in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by SERC and NERC.

(e) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. SERC and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and SERC shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of SERC's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that SERC or NERC is found liable for gross negligence or intentional misconduct, in which case SERC or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party, except as otherwise specifically provided herein and in Section 15(c).

15. Confidentiality.

(a) During the course of the Parties' performance under this Agreement, a Party may

receive proprietary, business sensitive, or critical infrastructure information (“Confidential Information”) necessary to fulfill its respective obligations in connection with this Agreement. The Parties agree that their mutual objective under this provision is to provide appropriate protection for Confidential Information, while maintaining the ability to conduct their respective business activities.

(b) No obligation of confidentiality shall apply to any information that the recipient: (i) already possesses without obligation of confidentiality; (ii) develops independently; or (iii) rightfully receives without any obligation of confidentiality from a third party.

(c) The Parties may transfer or exchange such Confidential Information with and between the other Regional Entities as third-party beneficiaries of the terms of this Agreement, provided the Parties and the other Regional Entities as third-party beneficiaries continue to maintain the confidentiality of such information.

(d) Except as set forth herein and within the NERC Rules of Procedure, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party or specified third-party beneficiary of this Agreement, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party or specified third-party beneficiary of this Agreement that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party or specified third-party beneficiary of this Agreement to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party or specified third-party beneficiary of this Agreement waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient’s counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information.

(e) Each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors’ employees, and agents to whom Confidential Information is

exposed are under obligations of confidentiality that are at least as restrictive as those contained herein.

(f) This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement, nor does it prohibit permitted disclosures as set forth in the NERC Rules of Procedure.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of SERC under this Agreement without first obtaining the consent of SERC, which consent shall not be unreasonably withheld or delayed. To the extent SERC does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of SERC under this Agreement, SERC shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by SERC to NERC and the Commission, or at such other time as may be mutually agreed by SERC and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and SERC (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to SERC's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. SERC shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is

separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, provided, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), provided, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. Provided, however, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. All notices, demands, requests, and other communications required, permitted by, or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand, email or overnight courier:

If to NERC:

North American Electric Reliability
Corporation
1325 G Street NW, Suite 600
Washington, DC 20005
Attn: General Counsel
Email: legal@nerc.net

If to SERC:

SERC Reliability Corporation
3701 Arco Corporate Drive
Suite 300
Charlotte, NC 28273
Attn: President and CEO
Email: shenry@serc1.org

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of Georgia without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from

exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in Georgia. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in Georgia for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. Savings Clause. Nothing in this Agreement shall be construed to preempt or limit any authority that SERC may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. Entire Agreement. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. Execution of Counterparts. This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

SERC RELIABILITY CORPORATION

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

SERC Regional Boundaries

Exhibit A to the Amended and Restated Regional Entity Delegation Agreement between

**North American Electric Reliability Corporation
and
SERC Reliability Corporation**



1.0 Regional Boundaries

The geographic boundaries of SERC Reliability Corporation (SERC) are determined by the service areas of its membership, comprised of investor-owned utilities, municipal, cooperative, state and federal systems, merchant electricity generators and power marketers.

SERC covers an area of approximately 560,000 square miles in sixteen states: all of Alabama, Georgia, Mississippi, North Carolina and South Carolina, and portions of Arkansas, Florida, Illinois, Iowa, Kentucky, Louisiana, Missouri, Oklahoma, Tennessee, Texas and Virginia.

Service provided by SERC members in areas which overlap with neighboring regions:

- The area in southern Iowa is served by N.E. Missouri Electric Power Cooperative, a member of Associated Electric Cooperative, Inc., and N.W. Electric Power Cooperative, a member of Associated Electric Cooperative, Inc.
- The area in eastern Oklahoma is served by KAMO Electric Cooperative, Inc., a member of Associated Electric Cooperative, Inc.
- The area in Arkansas is served by Entergy Arkansas.
- The area in western Missouri is served by N.W. Electric Power Cooperative, a member of Associated Electric Cooperative, Inc., and KAMO Electric Cooperative, Inc., a member of Associated Electric Cooperative, Inc.
- The area in N.E. Florida (part of Baker and Nassau counties) served by Okefenokee Rural Electric Membership Corporation (OREMC), a member of Georgia System Operations Corporation, and facilities physically located in Baker County, Florida owned by Georgia Transmission Corporation (GTC) are part of the SERC Region and not the FRCC Region.

A regional map is shown in Section 1.1.

SERC may also perform compliance and enforcement activities outside of the Region, on behalf of NERC and/or other Regional Entities, such activities to be undertaken pursuant to a contract between the Regional Entities that is approved by the Board Executive Committee, NERC and the Federal Energy Regulatory Commission.

Regional Boundaries

1.1 SERC Regional Map

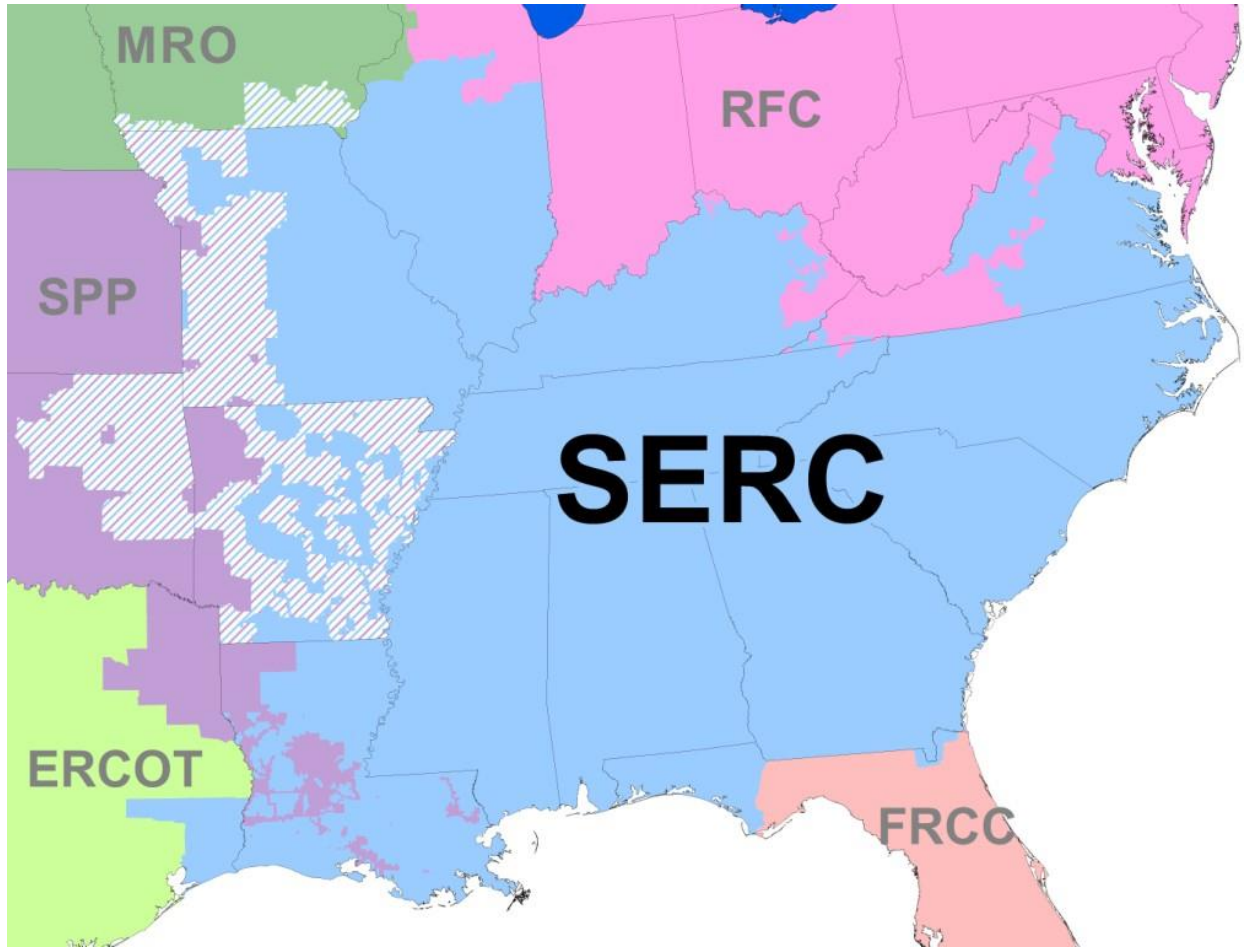


Exhibit B — Governance

The Regional Entity bylaws shall meet the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence from the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

Exhibit C [Intentionally left blank]

**SERC Compliance Monitoring and
Enforcement Program**

**Exhibit D
to the
Amended and Restated
Regional Entity Delegation Agreement
between**

**North American Electric Reliability Corporation
and
SERC Reliability Corporation**



Exhibit D — Compliance Monitoring and Enforcement Program

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

SERC Reliability Corporation (“SERC”) will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within SERC’s geographic or electrical boundaries, and such other scope, set forth in **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

SERC, to the extent required in the Rules of Procedure, shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be a balanced compliance panel reporting directly to SERC’s board.

SERC’s Hearing Body is the Board Compliance Committee, or a subset of the Board Compliance Committee. The Board Compliance Committee is comprised of SERC board members appointed by the Board of Directors. The Board Compliance Committee representation is as follows:

- The Investor-Owned Utility Sector shall have three (3) representatives;
- The Federal/State Sector shall have two (2) representatives;
- The Cooperative Sector shall have two (2) representatives;
- The Municipal Sector shall have two (2) representatives;
- The Marketer Sector shall have one (1) representative;
- The Merchant Electricity Sector shall have one (1) representative;
- The ISO-RTO Sector shall have one (1) representative

Consistent with the Hearing Procedures, a quorum for the purpose of constituting a Hearing Body shall be half of SERC’s Board Compliance Committee, or six members including alternates. In addition to the quorum requirement, the chair of the Board Compliance Committee shall declare the Hearing Body duly constituted only if no two sectors can control and no one sector can veto the actions of the Hearing Body (the “Sector Control Requirements”). To ensure that the Sector Control Requirements are met in the formation of a Hearing Body, the Chair shall adhere to the following in declaring the Hearing Body duly constituted:

- If the Hearing Body is made up of six (6) members of the BCC, then each sector shall have no more than one (1) representative on the Hearing Body.
- If the Hearing Body is made up of seven (7) or eight (8) members of the BCC, then only one sector can have two (2) representatives on the Hearing Body, and each other sector can have only one (1) representative on the Hearing Body.

- If the Hearing Body is made up of nine (9) or ten (10) members of the BCC, then no sector can have more than two (2) representatives on the Hearing Body.
- If the Hearing Body is made up of eleven (11) or twelve (12) members of the BCC, then the Sector Control Requirements are met, as no two sectors would have enough votes to control, and no one sector would have the ability to veto.

Approval of all actions before a duly constituted Hearing Body shall require a simple majority of the votes cast, with each member of the Hearing Body having one vote. The decision of any duly constituted Hearing Body pursuant to these requirements shall be final and binding on the Corporation, without requiring either the full Compliance Committee or the Corporation to ratify the Hearing Body's actions.

To the extent required in the Rules of Procedure, SERC shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: None.

3.0 OTHER DECISION-MAKING BODIES

SERC does not use decision making bodies within its compliance program other than the Board Compliance Committee described in Section 2.0.

SERC Funding

Exhibit E to the Amended and Restated Regional Entity Delegation Agreement between

**North American Electric Reliability Corporation
and
SERC Reliability Corporation**



Exhibit E — Funding

1. Scope of Activities Funded through the ERO Funding Mechanism

SERC shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and SERC, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of SERC's business plan and budget. The annual schedule for the preparation of business plans and budgets shall require SERC (i) to submit to NERC draft(s) of SERC's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by SERC Board of Directors to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of SERC's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The SERC business plan and budget submission shall include supporting materials, including SERC's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. SERC's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve SERC's proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct SERC to make such revisions as NERC deems appropriate prior to approval. NERC shall submit SERC's approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget

submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of SERC's delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. SERC shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying SERC's assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of SERC's assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

(a) NERC shall submit invoices to the load-serving entities or designees identified by SERC covering the NERC and SERC assessments approved for collection.

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from Applicable Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, SERC shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, SERC is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within SERC's region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within SERC's region.

(c) Upon approval by Applicable Governmental Authorities of SERC's annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay SERC's annual assessment to SERC in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by SERC, other than penalty monies received from an operational function or division or affiliated entity of SERC, shall be applied as a general offset to SERC's budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of SERC shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for SERC's Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), SERC performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"): None.

SERC shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions: Not applicable.

SERC shall provide its budget for such non-statutory activities to NERC at the same time that SERC submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. SERC's budget for non-statutory activities that is provided to NERC shall contain a detailed list of SERC's non-statutory activities and a description of the funding sources for the non-statutory activities. SERC agrees that no costs (which shall include a reasonable allocation of SERC's general and administrative costs) of non-statutory activities are to be included in the calculation of SERC's assessments, dues, fees, and other charges for its statutory activities.

Costs associated with Cross-Regional Compliance Monitoring. The costs associated with any Cross-Regional Compliance Monitoring performed by SERC pursuant to Section 6(f) of this Agreement with respect to registered functions of another Regional Entity are to be funded by payments from the NERC or the Regional Entity contracting with SERC for such services, in accordance with the contract between SERC and NERC or the other Regional Entity. Where such a contract has been entered into SERC will include a description of the resources it has budgeted to perform such services, and its estimated costs (including an appropriate allocation of SERC's General and Administrative costs) to perform such services, in each budget year, in SERC's annual business plan and budget that is submitted to NERC and to the Commission for approval.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if SERC determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, SERC shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in SERC's approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct SERC to make such revisions as NERC deems appropriate prior to approval. NERC shall submit SERC's approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Records

Upon a request made to SERC with reasonable notice, NERC shall have access to and may review all financial records of SERC, including records used to prepare SERC's financial statements. NERC shall conduct reviews of the quarterly and annual financial statements submitted by SERC pursuant to Section 9(h) and (i) of the Agreement. SERC shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC.

**Attachment 7B: REDLINE – Revised Regional Delegation Agreement with
SERC Reliability Corporation**

REDLINE TO PRO FORMA RDA

AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION AND ~~REGIONAL ENTITY~~SERC RELIABILITY CORPORATION

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”)

Effective as of January 1, 2016, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and ~~REGIONAL ENTITY~~SERC Reliability Corporation (“SERC”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified in **Exhibit A** to this Agreement, and for other purposes. NERC and ~~REGIONAL ENTITY~~SERC may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824o) (hereafter “the Act”), which, among other things, provides for the establishment of an Electric Reliability Organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional

entities (“Regional Entities”) such as ~~[REGIONAL ENTITY]~~, SERC, provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, ~~[REGIONAL ENTITY]~~ ~~is/~~ SERC is not organized on an Interconnection-wide basis and therefore ~~is/is not~~ entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through ~~[REGIONAL ENTITY]~~ SERC to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that ~~[REGIONAL ENTITY]~~ SERC meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and ~~[REGIONAL ENTITY]~~, SERC, having operated under a

predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and ~~REGIONAL ENTITY~~SERC agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to ~~REGIONAL ENTITY~~SERC to propose and enforce Reliability Standards, consistent with Section 4(d) and the boundaries identified in **Exhibit A** pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. Representations.

(a) For purposes of its Delegated Authority, ~~REGIONAL ENTITY~~SERC hereby represents and warrants to NERC that:

(i) ~~REGIONAL ENTITY~~SERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. ~~REGIONAL~~

~~ENTITY}SERC~~ is governed in accordance with its bylaws by ~~[select appropriate: an independent board/a balanced stakeholder board/a combination independent and balanced stakeholder board]~~. Pursuant to these bylaws, no two industry sectors can control any ~~{REGIONAL ENTITY}SERC~~ decision and no single industry sector can veto any ~~{REGIONAL ENTITY}SERC~~ decision. The relevant criteria for the establishment of such bylaws are attached hereto in **Exhibit B**. No other ~~{REGIONAL ENTITY}SERC~~ corporate governance documents shall be inconsistent with the criteria in **Exhibit B**.

(ii) ~~{REGIONAL ENTITY}SERC~~ has developed a standards development procedure, which provides the process that ~~{REGIONAL ENTITY}SERC~~ may use to develop Regional Reliability Standards ~~[and Regional Variances, if the regional entity is organized on an Interconnection-wide basis]~~ that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, ~~{REGIONAL ENTITY}SERC~~ has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within ~~{REGIONAL ENTITY}'sSERC's~~ geographic boundaries as shown in **Exhibit A**.

(b) NERC hereby represents and warrants to ~~{REGIONAL ENTITY}SERC~~ that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

(iii) NERC shall comply with its Certificate of Incorporation, Bylaws and Rules of Procedure, as from time to time adopted, approved or amended.

3. General Covenants.

(a) During the term of this Agreement, ~~{REGIONAL ENTITY}SERC~~ shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide

basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) ~~{REGIONAL ENTITY}~~SERC shall provide NERC with a copy of its Regional Entity Rules upon request by NERC.

(c) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of ~~{REGIONAL ENTITY}~~SERC under this Agreement without first obtaining the consent of ~~{REGIONAL ENTITY}~~SERC, which consent shall not be unreasonably withheld or delayed.

(d) During the term of this Agreement, NERC and ~~{REGIONAL ENTITY}~~SERC shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

(e) For purposes of this Agreement, NERC shall collaborate with the Regional Entities in the development of guidance, policies and procedures, and oversight parameters as contemplated by this Agreement. In the event that collaboration is not successful on any such matter, the NERC President may issue a directive with respect to such matter pursuant to Section 8 herein, and such directive shall be binding upon ~~{REGIONAL ENTITY}~~SERC.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of ~~{REGIONAL ENTITY}~~SERC in this Agreement, ~~{REGIONAL ENTITY}'s}~~SERC's corporate governance documents, the ~~{REGIONAL ENTITY}'s}~~SERC's standards development process, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to ~~{REGIONAL ENTITY}~~SERC for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth in **Exhibit A**, provided, that ~~{REGIONAL ENTITY}~~SERC shall not monitor and enforce compliance with Reliability Standards for ~~{REGIONAL ENTITY}~~SERC or an affiliated entity with respect to reliability

functions for which ~~[REGIONAL ENTITY]SERC~~ or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to ~~[REGIONAL ENTITY]SERC~~ within, or additions to this delegation of authority to ~~[REGIONAL ENTITY]SERC~~ beyond, the geographic boundaries set forth in **Exhibit A** are stated in **Exhibit A**.

(b) In circumstances where ~~[REGIONAL ENTITY]SERC~~ or an affiliated entity is a Registered Entity, ~~[REGIONAL ENTITY]SERC~~ shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce ~~[REGIONAL ENTITY]'sSERC's~~ or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit ~~[REGIONAL ENTITY]SERC~~ from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified in **Exhibit A** that is within the United States. Any delegation of authority by Applicable Governmental Authorities in Canada or Mexico shall be governed by the law of such authority or a separate agreement and is outside the scope of this Agreement; provided, however, that both ~~[REGIONAL ENTITY]SERC~~ and NERC shall endeavor to ensure that this Agreement and any such separate agreement are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, ~~[REGIONAL ENTITY]SERC~~ shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, ~~[REGIONAL ENTITY]SERC~~ shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process

for proposing and adopting Reliability Standards that affords ~~[REGIONAL ENTITY]~~SERC reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards ~~[and Regional Variances, if Regional Entity is organized on an Interconnection-wide basis]~~ through ~~[REGIONAL ENTITY]'s~~SERC's process. ~~[REGIONAL ENTITY]'s~~SERC's process shall be consistent with the NERC Rules of Procedure and Commission directives. Any changes to ~~[REGIONAL ENTITY]'s~~SERC's process shall be submitted to the NERC Board of Trustees for approval and upon approval, be submitted to the Commission for approval. Proposals approved through ~~[REGIONAL ENTITY]'s~~SERC's process shall be reviewed by the NERC Board of Trustees after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board of Trustees shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. ~~[REGIONAL ENTITY]~~SERC may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, ~~{REGIONAL ENTITY}~~SERC shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the boundaries set forth in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and ~~{REGIONAL ENTITY}~~SERC agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, inter alia, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. ~~{REGIONAL ENTITY}~~SERC may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, ~~{REGIONAL ENTITY}~~SERC agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board of Trustees or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) ~~{REGIONAL ENTITY}~~SERC shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual ERO Compliance Monitoring and Enforcement Program Implementation Plan.

(c) ~~{REGIONAL ENTITY}~~SERC shall report promptly to NERC information regarding noncompliance with a Reliability Standard, and its eventual disposition by ~~{REGIONAL ENTITY}~~SERC, as set forth in, and subject to the confidentiality and disclosure provisions of, the NERC Rules of Procedure, the NERC Compliance Monitoring and Enforcement Program, this Agreement, compliance and enforcement program procedures and guidance that NERC may from time to time develop and the ERO Regulations. NERC shall promptly forward such report to the Commission, as required by the ERO Regulations, or as the Commission shall from time to time direct. NERC and ~~{REGIONAL ENTITY}~~SERC shall cooperate in filing such periodic summary reports and analyses as the Commission shall from

time to time direct.

(d) All dispositions by ~~REGIONAL ENTITY~~SERC of noncompliance with Reliability Standards shall be reported to NERC for review. NERC shall develop and implement policies and procedures for the review and, where appropriate, approval of dispositions of noncompliance.

(e) As part of its compliance monitoring and enforcement program, ~~REGIONAL ENTITY~~SERC shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

(f) ~~For Regional Entities with such agreements:~~ ~~REGIONAL ENTITY~~SERC may also perform compliance monitoring and enforcement activities outside of the boundaries shown in **Exhibit A**, on behalf of a Regional Entity that is unable to perform such activities with respect to one or more registered entities within its footprint due to a conflict of interest. Such activities shall be performed pursuant to a contract between ~~REGIONAL ENTITY~~SERC and other such Regional Entity that is approved by both NERC and the Commission.

7. Delegation-Related Activities.

NERC will engage ~~REGIONAL ENTITY~~SERC on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed in **Exhibit E**. NERC may from time to time develop policies or procedures, which shall be used by ~~REGIONAL ENTITY~~SERC in the performance of the delegation-related activities. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (g), each of which shall be considered a statutory activity:

(a) **Certification of Bulk-Power System Entities.** The NERC Board of Trustees shall set criteria for certification in accordance with the NERC Rules of Procedure.

Certifications shall be issued in accordance with the NERC Rules of Procedure.

(b) Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.

(i) The NERC Board of Trustees shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by ~~{REGIONAL ENTITY}~~SERC and other Regional Entities. ~~{REGIONAL ENTITY}~~SERC shall provide timely and accurate information relating to registrations to NERC, as needed, to enable NERC to maintain a registration database that is accurate and up-to-date and to enable NERC to satisfy its monthly reporting obligation.

(iii) The NERC Board of Trustees Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board of Trustees Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) Reliability Assessment and Performance Analysis. ~~{REGIONAL ENTITY}~~SERC shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. ~~{REGIONAL ENTITY}~~SERC shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives, and policies and procedures related to data-gathering, quality control, forms, and reporting mechanisms that NERC may from time to time develop.

(d) Event Analysis and Reliability Improvement. ~~{REGIONAL ENTITY}~~SERC shall conduct event analysis pursuant to the NERC Rules of Procedure, applicable governmental

regulations, and policies and procedures that NERC may from time to time develop. NERC and ~~{REGIONAL ENTITY}~~SERC shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, ~~{REGIONAL ENTITY}~~SERC shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) **Training and Education.** ~~{REGIONAL ENTITY}~~SERC may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) **Situation Awareness.** ~~{REGIONAL ENTITY}~~SERC shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System.

(g) **Critical Infrastructure Security.** ~~{REGIONAL ENTITY}~~SERC shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of ~~{REGIONAL ENTITY}~~'sSERC's performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and ~~{REGIONAL ENTITY}~~SERC that matters relating to NERC's oversight of ~~{REGIONAL ENTITY}~~'sSERC's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and ~~{REGIONAL ENTITY}~~SERC and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO

Regulations.

(a) (i) NERC shall develop, in collaboration with ~~[REGIONAL ENTITY]SERC~~ and other Regional Entities, performance goals, performance reports, measures and other parameters (including, without limiting the scope of such goals, financial performance goals), which shall be used to measure NERC's and ~~[REGIONAL ENTITY]'sSERC's~~ performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. ~~[REGIONAL ENTITY]SERC~~ shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate ~~[REGIONAL ENTITY]'sSERC's~~ performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters, and performance reports to evaluate ~~[REGIONAL ENTITY]'sSERC's~~ performance of its delegated functions and related activities and to provide advice and direction to ~~[REGIONAL ENTITY]SERC~~ on performance improvements. The performance goals, measures and other parameters, and the values of such goals, measures and parameters, shall be reviewed by NERC, ~~[REGIONAL ENTITY]SERC~~ and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, ~~[REGIONAL ENTITY]SERC~~ shall be required to develop, submit for NERC approval, and implement action plans to address, areas of its performance that are reasonably determined by NERC, based on analysis of ~~[REGIONAL ENTITY]'sSERC's~~ performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring ~~[REGIONAL ENTITY]SERC~~ to adopt and implement an action plan or other remedial action, NERC shall issue a notice to ~~[REGIONAL ENTITY]SERC~~ of the need and basis for an action plan or other remedial action and provide an opportunity for ~~[REGIONAL ENTITY]SERC~~ to submit a written response contesting NERC's evaluation of ~~[REGIONAL ENTITY]'sSERC's~~ performance and the need for an action plan. ~~[REGIONAL ENTITY]SERC~~ may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board of Trustees review and reconsider the request. NERC and

~~{REGIONAL ENTITY}~~SERC shall work collaboratively as needed in the development and implementation of ~~{REGIONAL ENTITY}~~'sSERC's action plan. A final action plan submitted by ~~{REGIONAL ENTITY}~~SERC to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to ~~{REGIONAL ENTITY}~~SERC standardized training and education programs, which shall be designed taking into account input from ~~{REGIONAL ENTITY}~~SERC and other Regional Entities, for ~~{REGIONAL ENTITY}~~SERC personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to ~~{REGIONAL ENTITY}~~SERC concerning the manner in which ~~{REGIONAL ENTITY}~~SERC shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered "directives." NERC shall initiate the development of a directive through a collaborative process with ~~{REGIONAL ENTITY}~~SERC and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and ~~{REGIONAL ENTITY}~~SERC and, if applicable, other Regional Entities, are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, ~~{REGIONAL ENTITY}~~SERC, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by ~~{REGIONAL ENTITY}~~SERC, the NERC Board of Trustees (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without ~~{REGIONAL ENTITY}~~'sSERC's agreement, *provided*, that ~~{REGIONAL ENTITY}~~SERC shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and ~~[REGIONAL ENTITY]~~SERC and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that it is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board of Trustees (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which ~~[REGIONAL ENTITY]~~,SERC, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The NERC Board of Trustees or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the NERC Board of Trustees or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. ~~[REGIONAL ENTITY]~~,SERC, either individually or in conjunction with other Regional Entities, may request that the NERC Board of Trustees or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with ~~[REGIONAL ENTITY]~~,SERC, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) NERC may perform reviews of ~~[REGIONAL ENTITY]~~SERC on a reasonable periodicity to determine ~~[REGIONAL ENTITY]~~'sSERC's compliance with this Agreement, any policies or procedures established by NERC, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c) and to monitor the implementation of guidance and directions issued by the NERC Board of Trustees pursuant to Section 8(d). All such periodic reviews shall

comply with the NERC Rules of Procedure and Commission directives.

(g) The Commission and the Commission staff shall have full access to action plans and remedial actions, directives, and directions and guidance issued pursuant to subsections (a)(iii), (c)(iv) and (d), respectively, that are maintained as non-public.

9. Funding. ~~REGIONAL ENTITY~~SERC and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) ~~REGIONAL ENTITY~~SERC shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. ~~REGIONAL ENTITY~~'sSERC's proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, ~~REGIONAL ENTITY~~SERC to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E**. ~~REGIONAL ENTITY~~'sSERC's business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) ~~REGIONAL ENTITY~~SERC and NERC agree that the portion of ~~REGIONAL ENTITY~~'sSERC's approved budget for the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by ~~REGIONAL ENTITY~~SERC and approved by NERC and the Commission. If ~~REGIONAL ENTITY~~SERC proposes to use a formula other than Net Energy for Load beginning in the following year, ~~REGIONAL ENTITY~~SERC shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the

Commission approves the annual business plan and budget submitted by NERC and ~~{REGIONAL ENTITY}~~SERC to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide ~~{REGIONAL ENTITY}~~SERC with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) ~~{REGIONAL ENTITY}~~SERC shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E**, as well as for all other activities of ~~{REGIONAL ENTITY}~~SERC, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund ~~{REGIONAL ENTITY}~~'sSERC's performance of its Delegated Authority and related activities in accordance with ~~{REGIONAL ENTITY}~~'sSERC's Commission- approved business plan and budget, in the amount of ~~{REGIONAL ENTITY}~~'sSERC's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting ~~{REGIONAL ENTITY}~~'sSERC's approved assessments from end users and other entities and payment of the approved assessment amount to ~~{REGIONAL ENTITY}~~SERC, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon ~~{REGIONAL ENTITY}~~SERC that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without ~~{REGIONAL ENTITY}~~'sSERC's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and ~~{REGIONAL ENTITY}SERC~~ fiscal year budget with the actual results at the NERC and Regional Entity levels. ~~{REGIONAL ENTITY}SERC~~ shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) ~~{REGIONAL ENTITY}SERC~~ shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) ~~{REGIONAL ENTITY}SERC~~ shall submit audited financial statements annually, including supporting materials, in a form provided by NERC, by no later than the date reasonably required and designated in writing by NERC to enable NERC to assemble and file the required annual budget to actual true up filing with the Commission.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which ~~{REGIONAL ENTITY}SERC~~ shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of ~~{REGIONAL ENTITY}SERC~~) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which ~~{REGIONAL ENTITY}SERC~~ shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of ~~{REGIONAL ENTITY}SERC~~. *Provided*, that, subject to approval by NERC and the Commission, ~~{REGIONAL ENTITY}SERC~~ may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged,

in whole or in part, by reason thereof. ~~REGIONAL ENTITY~~SERC may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit ~~REGIONAL ENTITY~~SERC from contracting with other entities to assist it in carrying out its Delegated Authority, provided ~~REGIONAL ENTITY~~SERC retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on ~~January 1, 2016~~ (the "Effective Date").

(b) The term of this Agreement shall commence on the Effective Date, and shall have an initial term of five years (the "Term"), ending on December 31, 2020. Thereafter, the Term shall automatically extend for one additional five-year term unless either Party shall provide written notice of termination of this Agreement to the other no later than one year prior to the then effective expiration of the Term. In such event, this Agreement shall terminate upon the expiration of then effective Term, unless otherwise mutually agreed to by the Parties.

(c) In the event of the termination of this Agreement, the Parties shall work to provide for a transition of ~~[REGIONAL ENTITY]~~'s SERC's Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement.

(d) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by ~~[REGIONAL ENTITY]~~SERC and NERC.

(e) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. ~~[REGIONAL ENTITY]~~SERC and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and ~~[REGIONAL ENTITY]~~SERC shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of ~~[REGIONAL ENTITY]~~'s SERC's or NERC's responsibilities under this Agreement or in conducting

activities under the authority of Section 215 of the Act, except to the extent that ~~[REGIONAL ENTITY]SERC~~ or NERC is found liable for gross negligence or intentional misconduct, in which case ~~[REGIONAL ENTITY]SERC~~ or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party, except as otherwise specifically provided herein and in Section 15(c).

15. Confidentiality.

(a) During the course of the Parties' performance under this Agreement, a Party may receive proprietary, business sensitive, or critical infrastructure information ("Confidential Information") necessary to fulfill its respective obligations in connection with this Agreement. The Parties agree that their mutual objective under this provision is to provide appropriate protection for Confidential Information, while maintaining the ability to conduct their respective business activities.

(b) No obligation of confidentiality shall apply to any information that the recipient: (i) already possesses without obligation of confidentiality; (ii) develops independently; or (iii) rightfully receives without any obligation of confidentiality from a third party.

(c) The Parties may transfer or exchange such Confidential Information with and between the other Regional Entities as third-party beneficiaries of the terms of this Agreement, provided the Parties and the other Regional Entities as third-party beneficiaries continue to maintain the confidentiality of such information.

(d) Except as set forth herein and within the NERC Rules of Procedure, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party or specified third-party beneficiary of this Agreement, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party or specified third-party beneficiary of this Agreement that provided the Confidential Information with prompt notice of such request or requirement in

order to enable such issuing Party or specified third-party beneficiary of this Agreement to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party or specified third-party beneficiary of this Agreement waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information.

(e) Each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein.

(f) This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement, nor does it prohibit permitted disclosures as set forth in the NERC Rules of Procedure.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of ~~{REGIONAL ENTITY}~~SERC under this Agreement without first obtaining the consent of ~~{REGIONAL ENTITY}~~,SERC, which consent shall not be unreasonably withheld or delayed. To the extent ~~{REGIONAL ENTITY}~~SERC does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of ~~{REGIONAL ENTITY}~~SERC under this Agreement, ~~{REGIONAL ENTITY}~~SERC shall have the option, exercisable no later than 60 days after issuance of such

order, to terminate this Agreement. Such termination shall be effective one year following written notice by ~~{REGIONAL ENTITY}~~SERC to NERC and the Commission, or at such other time as may be mutually agreed by ~~{REGIONAL ENTITY}~~SERC and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and ~~{REGIONAL ENTITY}~~SERC (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to ~~{REGIONAL ENTITY}~~'sSERC's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. ~~{REGIONAL ENTITY}~~ SERC shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, provided, that the designated

representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), provided, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. Provided, however, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. All notices, demands, requests, and other communications required, permitted by, or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand, email or overnight courier:

If to NERC:

North American Electric Reliability Corporation
1325 G Street NW, Suite 600
Washington, DC 20005
Attn: General Counsel
Email: legal@nerc.net

If to ~~[REGIONAL ENTITY]~~:SERC:

SERC Reliability Corporation
3701 Arco Corporate Drive
Suite 300
Charlotte, NC 28273
Attn: President and CEO
Email: shenry@serc1.org

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of Georgia without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in Georgia. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in Georgia for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. Savings Clause. Nothing in this Agreement shall be construed to preempt or limit any authority that ~~[REGIONAL ENTITY]~~SERC may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the

region described in **Exhibit A**.

23. Entire Agreement. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. Execution of Counterparts. This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

~~[REGIONAL ENTITY]~~SERC
RELIABILITY CORPORATION

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

~~Exhibit A~~ SERC Regional Boundaries

Exhibit A
to the
Amended and Restated
Regional Entity Delegation Agreement
between

North American Electric Reliability Corporation
and
SERC Reliability Corporation



1.0 Regional Boundaries

The geographic boundaries of SERC Reliability Corporation (SERC) are determined by the service areas of its membership, comprised of investor-owned utilities, municipal, cooperative, state and federal systems, merchant electricity generators and power marketers.

SERC covers an area of approximately 560,000 square miles in sixteen states: all of Alabama, Georgia, Mississippi, North Carolina and South Carolina, and portions of Arkansas, Florida, Illinois, Iowa, Kentucky, Louisiana, Missouri, Oklahoma, Tennessee, Texas and Virginia.

Service provided by SERC members in areas which overlap with neighboring regions:

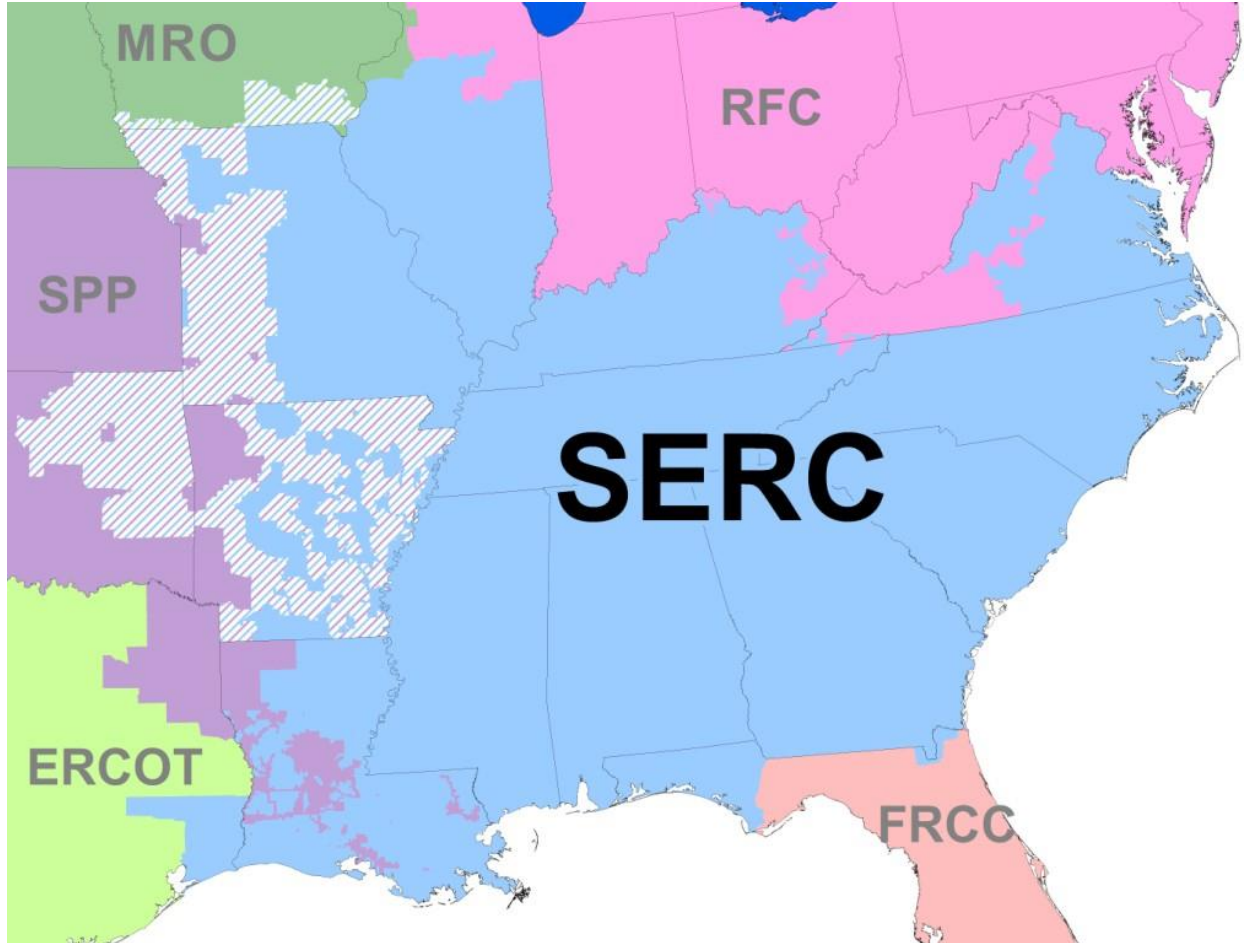
- The area in southern Iowa is served by N.E. Missouri Electric Power Cooperative, a member of Associated Electric Cooperative, Inc., and N.W. Electric Power Cooperative, a member of Associated Electric Cooperative, Inc.
- The area in eastern Oklahoma is served by KAMO Electric Cooperative, Inc., a member of Associated Electric Cooperative, Inc.
- The area in Arkansas is served by Entergy Arkansas.
- The area in western Missouri is served by N.W. Electric Power Cooperative, a member of Associated Electric Cooperative, Inc., and KAMO Electric Cooperative, Inc., a member of Associated Electric Cooperative, Inc.
- The area in N.E. Florida (part of Baker and Nassau counties) served by Okefenokee Rural Electric Membership Corporation (OREMC), a member of Georgia System Operations Corporation, and facilities physically located in Baker County, Florida owned by Georgia Transmission Corporation (GTC) are part of the SERC Region and not the FRCC Region.

A regional map is shown in Section 1.1.

SERC may also perform compliance and enforcement activities outside of the Region, on behalf of NERC and/or other Regional Entities, such activities to be undertaken pursuant to a contract between the Regional Entities that is approved by the Board Executive Committee, NERC and the Federal Energy Regulatory Commission.

Regional Boundaries

1.1 SERC Regional Map



~~Exhibit A to the delegation agreement for each Regional Entity receiving Delegated Authority shall describe the geographic or electrical boundaries covered by the proposed delegation of authority. Exhibit A for each Regional Entity shall reflect coordination with neighboring Regional Entities, as appropriate, to ensure that all relevant areas are either included within the geographic boundaries of a Regional Entity or specifically identified as not being within the geographic boundaries of any Regional Entity. Any exclusions of geographic or electrical areas or of Registered Entities from the scope of the Regional Entity's Delegated Authority within the geographic or electrical boundaries shown in Exhibit A, and any additions of geographic or electrical areas or of Registered Entities located outside the boundaries shown in Exhibit A to the scope of the Regional Entity's Delegated Authority, shall be specifically stated or described in Exhibit A.~~

Exhibit B — Governance

The Regional Entity bylaws shall meet the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence from the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

Exhibit C [Intentionally left blank]

**SERC Compliance Monitoring and
Enforcement Program**

**Exhibit D
to the
Amended and Restated
Regional Entity Delegation Agreement
between**

**North American Electric Reliability Corporation
and
SERC Reliability Corporation**



Exhibit D — Compliance Monitoring and Enforcement Program

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

~~[REGIONAL ENTITY]~~SERC Reliability Corporation (“SERC”) will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within ~~[REGIONAL ENTITY]’s~~SERC’s geographic or electrical boundaries, and such other scope, set forth in **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

~~[REGIONAL ENTITY],~~SERC, to the extent required in the Rules of Procedure, shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be ~~either [REGIONAL ENTITY]’s board, a committee of the board,~~ a balanced compliance panel reporting directly to ~~[REGIONAL ENTITY]’s board or an independent hearing panel. [REGIONAL ENTITY]’s hearing body is [its board] [if not the board, insert the name of the committee or group serving as the hearing body].~~SERC’s board.

~~[If the hearing body is a compliance panel other than the board, provide here a description of how the members of the compliance panel are selected and the qualifications to be selected for the compliance panel.]~~

SERC’s Hearing Body is the Board Compliance Committee, or a subset of the Board Compliance Committee. The Board Compliance Committee is comprised of SERC board members appointed by the Board of Directors. The Board Compliance Committee representation is as follows:

- The Investor-Owned Utility Sector shall have three (3) representatives;
- The Federal/State Sector shall have two (2) representatives;
- The Cooperative Sector shall have two (2) representatives;
- The Municipal Sector shall have two (2) representatives;
- The Marketer Sector shall have one (1) representative;
- The Merchant Electricity Sector shall have one (1) representative;
- The ISO-RTO Sector shall have one (1) representative

Consistent with the Hearing Procedures, a quorum for the purpose of constituting a Hearing Body shall be half of SERC’s Board Compliance Committee, or six members including alternates. In addition to the quorum requirement, the chair of the Board Compliance Committee shall declare the Hearing Body duly constituted only if no two sectors can control and no one sector can veto the actions of the Hearing Body (the “Sector Control Requirements”). To ensure that the Sector Control Requirements are met in the formation of a Hearing Body, the Chair shall adhere to the following in declaring the Hearing Body duly constituted:

- If the Hearing Body is made up of six (6) members of the BCC, then each sector shall have no more than one (1) representative on the Hearing Body.
- If the Hearing Body is made up of seven (7) or eight (8) members of the BCC, then only one sector can have two (2) representatives on the Hearing Body, and each other sector can have only one (1) representative on the Hearing Body.
- If the Hearing Body is made up of nine (9) or ten (10) members of the BCC, then no sector can have more than two (2) representatives on the Hearing Body.
- If the Hearing Body is made up of eleven (11) or twelve (12) members of the BCC, then the Sector Control Requirements are met, as no two sectors would have enough votes to control, and no one sector would have the ability to veto.

Approval of all actions before a duly constituted Hearing Body shall require a simple majority of the votes cast, with each member of the Hearing Body having one vote. The decision of any duly constituted Hearing Body pursuant to these requirements shall be final and binding on the Corporation, without requiring either the full Compliance Committee or the Corporation to ratify the Hearing Body's actions.

To the extent required in the Rules of Procedure, ~~[REGIONAL ENTITY]SERC~~ shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: ~~{Describe any deviations, or state "None." If there are deviations from the NERC pro forma Hearing Procedures, [REGIONAL ENTITY]'s Hearing Procedures shall be included as a separate attachment to this Exhibit D.}None.~~

3.0 OTHER DECISION-MAKING BODIES

~~If [REGIONAL ENTITY] uses other decision-making bodies within its compliance program, provide here a description of the function of that body to the extent not described elsewhere in the Agreement or exhibits, how the members of that body are selected, and the qualifications to be selected for that body.}~~

SERC does not use decision-making bodies within its compliance program other than the Board Compliance Committee described in Section 2.0.

SERC Funding

Exhibit E
to the
Amended and Restated
Regional Entity Delegation Agreement

between

North American Electric Reliability Corporation
and
SERC Reliability Corporation



Exhibit E — Funding

1. Scope of Activities Funded through the ERO Funding Mechanism

~~{Regional Entity}~~SERC shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and ~~{Regional Entity}~~SERC, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of ~~{Regional Entity}'s~~SERC's business plan and budget. The annual schedule for the preparation of business plans and budgets shall require ~~{Regional Entity}~~SERC (i) to submit to NERC draft(s) of ~~{Regional Entity}'s~~SERC's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by ~~{Regional Entity}~~SERC Board of ~~Trustees~~Directors to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of ~~{Regional Entity}'s~~SERC's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The ~~{Regional Entity}~~SERC business plan and budget submission shall include supporting materials, including ~~{Regional Entity}'s~~SERC's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. ~~{Regional Entity}'s~~SERC's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve ~~{Regional Entity}'s~~SERC's proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct ~~{Regional Entity}~~SERC to make such revisions

as NERC deems appropriate prior to approval. NERC shall submit ~~{Regional Entity}'s~~SERC's approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of ~~{REGIONAL ENTITY}'s~~SERC's delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. ~~{Regional Entity}~~SERC shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying ~~{Regional Entity's}~~SERC's assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of ~~{Regional Entity's}~~SERC's assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

~~{IF NERC WILL BILL AND COLLECT ASSESSMENTS DIRECTLY FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):}~~

~~(a) NERC shall submit invoices to the load-serving entities or designees identified by ~~{Regional Entity}~~SERC covering the NERC and ~~{Regional Entity}~~SERC assessments approved for collection.~~

~~{IF THE REGIONAL ENTITY WILL ACT AS THE BILLING AND COLLECTION AGENT ON BEHALF OF NERC TO BILL AND COLLECT ASSESSMENTS FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):}~~

~~(a) NERC and ~~{Regional Entity}~~ agree that ~~{Regional Entity}~~ shall act as the billing and collection agent on behalf of NERC to bill and collect ~~{Regional Entity}~~'s assessments from load-serving entities and designees (or such other entities as agreed by NERC and ~~{Regional Entity}~~). ~~{Regional Entity}~~ agrees that it shall (i) issue all invoices to load-serving entities and other entities in a prompt and timely manner after receipt from NERC of the information needed to issue the invoices; (ii) exercise commercially reasonable efforts to collect invoices that are not paid as of the due date(s); and (iii) transfer all funds collected to NERC in a timely manner, as follows: Prior to the start of each calendar quarter, and once per week thereafter until all billings for the quarter are collected, ~~{Regional Entity}~~ will electronically transfer to NERC, in immediately available funds, all payments received by ~~{Regional Entity}~~ from load-serving entities or other entities for payment of invoices. On the same day that ~~{Regional Entity}~~ makes each electronic transfer of funds to NERC,~~

~~{Regional Entity} shall send an email to the Chief Financial Officer or Controller of NERC detailing the collections being transmitted, including a listing of the load-serving entities or other entities from which payments were collected and the amount collected from each entity. [Note: If NERC and Regional Entity have a different collection and payment arrangement, the preceding two sentences will be modified accordingly to describe it.]~~

~~{Regional Entity} agrees that it shall not in any way use its position as billing and collection agent for NERC to attempt to influence NERC's policies or decisions on matters relating to adoption of Reliability Standards (including Regional Reliability Standards and Regional Variances), administration of the compliance monitoring and enforcement program and other compliance and enforcement matters, determination and imposition of penalties and sanctions, budgeting matters including review and approval of {Regional Entity}'s budgets and business plans, or any other NERC decisions, including by issuing invoices, engaging in collection activities or transferring funds collected to NERC in an untimely manner or other than in accordance with this Agreement.~~

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from Applicable Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, ~~{Regional Entity}SERC~~ shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, ~~{Regional Entity}SERC~~ is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within ~~{REGIONAL ENTITY}'sSERC's~~ region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within ~~{Regional Entity}'sSERC's~~ region.

(c) Upon approval by Applicable Governmental Authorities of ~~{Regional Entity}'sSERC's~~ annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay ~~{Regional Entity}'sSERC's~~ annual assessment to ~~Regional EntitySERC~~ in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by ~~{Regional Entity},SERC~~, other than penalty monies received from an operational function or division or affiliated entity of ~~{Regional Entity},SERC~~, shall be applied as a general offset to ~~{Regional Entity}'sSERC's~~ budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of ~~{Regional Entity},SERC~~ shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for ~~[Regional Entity's]~~SERC's Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), ~~[Regional Entity]~~SERC performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"): ~~[List and describe all non-statutory activities performed by Regional Entity, or state "None."]~~None.

~~[Regional Entity]~~SERC shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions: ~~[List and describe the methods and procedures Regional Entity employs to keep costs and funding of statutory activities separate from costs and funding of non-statutory activities, including at a minimum a description of how Regional Entity's bank accounts and receivables/payables procedures are set up for both statutory and non-statutory functions, a description of how Regional Entity ensures each employee involved in both statutory and non-statutory functions keeps accurate time records reflecting his/her activities, and a description of how Regional Entity's general and administrative costs are allocated between statutory activities and non-statutory activities. If the necessary descriptions are lengthy they may be provided in a separate attachment labeled "Attachment E-1", and state here "See Attachment E-1." If Regional Entity has listed no non-statutory functions in the preceding paragraph, state here "Not applicable."]~~ Not applicable.

~~[Regional Entity]~~SERC shall provide its budget for such non-statutory activities to NERC at the same time that ~~[Regional Entity]~~SERC submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. ~~[Regional Entity's]~~SERC's budget for non-statutory activities that is provided to NERC shall contain a detailed list of ~~[Regional Entity's]~~SERC's non-statutory activities and a description of the funding sources for the non-statutory activities. ~~[Regional Entity]~~SERC agrees that no costs (which shall include a reasonable allocation of ~~[Regional Entity]~~'sSERC's general and administrative costs) of non-statutory activities are to be included in the calculation of ~~[Regional Entity's]~~SERC's assessments, dues, fees, and other charges for its statutory activities.

Costs associated with Cross-Regional Compliance Monitoring. The costs associated with any Cross-Regional Compliance Monitoring performed by SERC pursuant to Section 6(f) of this Agreement with respect to registered functions of another Regional Entity are to be funded by payments from the NERC or the Regional Entity contracting with SERC for such services, in accordance with the contract between SERC and NERC or the other Regional Entity. Where such a contract has been entered into SERC will include a description of the resources it has budgeted to perform such services, and its estimated costs (including an appropriate allocation of SERC's General and Administrative costs) to perform such services, in each budget year, in SERC's annual business plan and budget that is submitted to NERC and to the Commission for approval.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if ~~{Regional Entity}SERC~~ determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, ~~{Regional Entity}SERC~~ shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in ~~{Regional Entity}'sSERC's~~ approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct ~~{Regional Entity}SERC~~ to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~{Regional Entity}'sSERC's~~ approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Records

Upon a request made to ~~{Regional Entity}SERC~~ with reasonable notice, NERC shall have access to and may review all financial records of ~~{Regional Entity},SERC,~~ including records used to prepare ~~{Regional Entity}'sSERC's~~ financial statements. NERC shall conduct reviews of the quarterly and annual financial statements submitted by ~~{Regional Entity}SERC~~ pursuant to Section 9(h) and (i) of the Agreement. ~~{Regional Entity}SERC~~ shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC.

**Attachment 8A: CLEAN – Revised Regional Delegation Agreement with
Southwest Power Pool, Inc., on behalf of Southwest Power Pool Regional Entity**

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
AND SOUTHWEST POWER POOL, INC.**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”)

Effective as of January 1, 2016, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and Southwest Power Pool, Inc., on behalf of Southwest Power Pool Regional Entity (“SPP”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified in **Exhibit A** to this Agreement, and for other purposes. NERC and SPP may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824o) (hereafter “the Act”), which, among other things, provides for the establishment of an Electric Reliability Organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the

delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as SPP, provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, SPP /is not organized on an Interconnection-wide basis and therefore is not entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through SPP to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that SPP meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and SPP, having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and SPP agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to SPP to propose and enforce Reliability Standards, consistent with Section 4(d) and the boundaries identified in **Exhibit A** pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. Representations.

(a) For purposes of its Delegated Authority, SPP hereby represents and warrants to NERC that:

(i) SPP is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and

fulfilling its obligations hereunder. SPP is governed in accordance with its bylaws by an independent board. Pursuant to these bylaws, no two industry sectors can control any SPP decision and no single industry sector can veto any SPP decision. The relevant criteria for the establishment of such bylaws are attached hereto in **Exhibit B**. No other SPP corporate governance documents shall be inconsistent with the criteria in **Exhibit B**.

(ii) SPP has developed a standards development procedure, which provides the process that SPP may use to develop Regional Reliability Standards that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, SPP has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within SPP's geographic boundaries as shown in **Exhibit A**.

(b) NERC hereby represents and warrants to SPP that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

(iii) NERC shall comply with its Certificate of Incorporation, Bylaws and Rules of Procedure, as from time to time adopted, approved or amended.

3. General Covenants.

(a) During the term of this Agreement, SPP shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) SPP shall provide NERC with a copy of its Regional Entity Rules upon request by

NERC.

(c) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of SPP under this Agreement without first obtaining the consent of SPP, which consent shall not be unreasonably withheld or delayed.

(d) During the term of this Agreement, NERC and SPP shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

(e) For purposes of this Agreement, NERC shall collaborate with the Regional Entities in the development of guidance, policies and procedures, and oversight parameters as contemplated by this Agreement. In the event that collaboration is not successful on any such matter, the NERC President may issue a directive with respect to such matter pursuant to Section 8 herein, and such directive shall be binding upon SPP.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of SPP in this Agreement, SPP's corporate governance documents, SPP's standards development process, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to SPP for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth in **Exhibit A**, provided, that SPP shall not monitor and enforce compliance with Reliability Standards for SPP or an affiliated entity with respect to reliability functions for which SPP or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to SPP within, or additions to this delegation of authority to SPP beyond, the geographic boundaries set forth in **Exhibit A** are stated in **Exhibit A**.

(b) In circumstances where SPP or an affiliated entity is a Registered Entity, SPP shall enter into an agreement with another Regional Entity or NERC for the other Regional

Entity or NERC to monitor and enforce SPP's or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit SPP from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified in **Exhibit A** that is within the United States. Any delegation of authority by Applicable Governmental Authorities in Canada or Mexico shall be governed by the law of such authority or a separate agreement and is outside the scope of this Agreement; provided, however, that both SPP and NERC shall endeavor to ensure that this Agreement and any such separate agreement are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, SPP shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, SPP shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords SPP reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards through SPP's process. SPP's process shall be consistent with the NERC Rules of Procedure and Commission directives. Any changes to SPP's process shall be submitted to the NERC Board of Trustees for approval and upon approval, be submitted to the Commission for approval. Proposals approved through SPP's process shall be reviewed by the NERC Board of Trustees after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a

Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board of Trustees shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. SPP may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, SPP shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the boundaries set forth in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and SPP agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, inter alia, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. SPP may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed,

and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, SPP agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board of Trustees or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) SPP shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual ERO Compliance Monitoring and Enforcement Program Implementation Plan.

(c) SPP shall report promptly to NERC information regarding noncompliance with a Reliability Standard, and its eventual disposition by SPP, as set forth in, and subject to the confidentiality and disclosure provisions of, the NERC Rules of Procedure, the NERC Compliance Monitoring and Enforcement Program, this Agreement, compliance and enforcement program procedures and guidance that NERC may from time to time develop and the ERO Regulations. NERC shall promptly forward such report to the Commission, as required by the ERO Regulations, or as the Commission shall from time to time direct. NERC and SPP shall cooperate in filing such periodic summary reports and analyses as the Commission shall from time to time direct.

(d) All dispositions by SPP of noncompliance with Reliability Standards shall be reported to NERC for review. NERC shall develop and implement policies and procedures for the review and, where appropriate, approval of dispositions of noncompliance.

(e) As part of its compliance monitoring and enforcement program, SPP shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

7. Delegation-Related Activities.

NERC will engage SPP on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed in **Exhibit E**. NERC may from time to time develop policies or procedures, which shall be used by SPP in the performance of the delegation-related activities. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (g), each of which shall be considered a statutory activity:

(a) **Certification of Bulk-Power System Entities.** The NERC Board of Trustees shall set criteria for certification in accordance with the NERC Rules of Procedure. Certifications shall be issued in accordance with the NERC Rules of Procedure.

(b) **Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.**

(i) The NERC Board of Trustees shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by SPP and other Regional Entities. SPP shall provide timely and accurate information relating to registrations to NERC, as needed, to enable NERC to maintain a registration database that is accurate and up-to-date and to enable NERC to satisfy its monthly reporting obligation.

(iii) The NERC Board of Trustees Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board of Trustees Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) **Reliability Assessment and Performance Analysis.** SPP shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. SPP shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives, and policies and procedures related to data-gathering, quality control, forms, and reporting mechanisms that NERC may from time to time develop.

(d) **Event Analysis and Reliability Improvement.** SPP shall conduct event analysis pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop. NERC and SPP shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, SPP shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) **Training and Education.** SPP may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) **Situation Awareness.** SPP shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System.

(g) **Critical Infrastructure Security.** SPP shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of SPP's performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and SPP that matters relating to NERC's oversight of SPP's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and SPP and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with SPP and other Regional Entities, performance goals, performance reports, measures and other parameters (including, without limiting the scope of such goals, financial performance goals), which shall be used to measure NERC's and SPP's performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. SPP shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate SPP's performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters, and performance reports to evaluate SPP's performance of its delegated functions and related activities and to provide advice and direction to SPP on performance improvements. The performance goals, measures and other parameters, and the values of such goals, measures and parameters, shall be reviewed by NERC, SPP and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, SPP shall be required to develop, submit for NERC approval, and implement action plans to address, areas of its performance that are reasonably determined by NERC, based on analysis of SPP's performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring SPP to adopt and implement an action plan or other remedial action, NERC shall issue a notice to SPP of the need and basis for an action plan

or other remedial action and provide an opportunity for SPP to submit a written response contesting NERC's evaluation of SPP's performance and the need for an action plan. SPP may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board of Trustees review and reconsider the request. NERC and SPP shall work collaboratively as needed in the development and implementation of SPP's action plan. A final action plan submitted by SPP to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to SPP standardized training and education programs, which shall be designed taking into account input from SPP and other Regional Entities, for SPP personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to SPP concerning the manner in which SPP shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered "directives." NERC shall initiate the development of a directive through a collaborative process with SPP and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and SPP and, if applicable, other Regional Entities, are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, SPP, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by SPP, the NERC Board of Trustees (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without SPP's agreement, *provided*, that SPP shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and SPP and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that it is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board of Trustees (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which SPP, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The NERC Board of Trustees or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the NERC Board of Trustees or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. SPP, either individually or in conjunction with other Regional Entities, may request that the NERC Board of Trustees or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with SPP, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) NERC may perform reviews of SPP on a reasonable periodicity to determine SPP's compliance with this Agreement, any policies or procedures established by NERC, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c) and to monitor the implementation of guidance and directions issued by the NERC Board of Trustees pursuant to Section 8(d). All such periodic reviews shall comply with the NERC Rules of

Procedure and Commission directives.

(g) The Commission and the Commission staff shall have full access to action plans and remedial actions, directives, and directions and guidance issued pursuant to subsections (a)(iii), (c)(iv) and (d), respectively, that are maintained as non-public.

9. Funding. SPP and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) SPP shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. SPP's proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, SPP to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E**. SPP's business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) SPP and NERC agree that the portion of SPP's approved budget for the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by SPP and approved by NERC and the Commission. If SPP proposes to use a formula other than Net Energy for Load beginning in the following year, SPP shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and SPP to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the

Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide SPP with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) SPP shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E**, as well as for all other activities of SPP, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund SPP's performance of its Delegated Authority and related activities in accordance with SPP's Commission- approved business plan and budget, in the amount of SPP's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting SPP's approved assessments from end users and other entities and payment of the approved assessment amount to SPP, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon SPP that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without SPP's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and SPP fiscal year budget with the actual results at the NERC and Regional Entity levels. SPP shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) SPP shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) SPP shall submit audited financial statements annually, including supporting materials, in a form provided by NERC, by no later than the date reasonably required and designated in writing by NERC to enable NERC to assemble and file the required annual budget to actual true up filing with the Commission.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which SPP shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of SPP) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which SPP shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of SPP. *Provided*, that, subject to approval by NERC and the Commission, SPP may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. SPP may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit SPP from contracting with other entities to assist it in carrying out its Delegated Authority, provided SPP retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and

diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on January 1, 2016 (the “Effective Date”).

(b) The term of this Agreement shall commence on the Effective Date, and shall have an initial term of five years (the “Term”), ending on December 31, 2020. Thereafter, the Term shall automatically extend for one additional five-year term unless either Party shall provide written notice of termination of this Agreement to the other no later than one year prior to the then effective expiration of the Term. In such event, this Agreement shall terminate upon the expiration of then effective Term, unless otherwise mutually agreed to by the Parties.

(c) In the event of the termination of this Agreement, the Parties shall work to provide for a transition of SPP’s Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement.

(d) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or

condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by SPP and NERC.

(e) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. SPP and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and SPP shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of SPP's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that SPP or NERC is found liable for gross negligence or intentional misconduct, in which case SPP or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party, except as otherwise specifically provided herein and in Section 15(c).

15. Confidentiality.

(a) During the course of the Parties' performance under this Agreement, a Party may receive proprietary, business sensitive, or critical infrastructure information ("Confidential Information") necessary to fulfill its respective obligations in connection with this Agreement. The Parties agree that their mutual objective under this provision is to provide appropriate

protection for Confidential Information, while maintaining the ability to conduct their respective business activities.

(b) No obligation of confidentiality shall apply to any information that the recipient: (i) already possesses without obligation of confidentiality; (ii) develops independently; or (iii) rightfully receives without any obligation of confidentiality from a third party.

(c) The Parties may transfer or exchange such Confidential Information with and between the other Regional Entities as third-party beneficiaries of the terms of this Agreement, provided the Parties and the other Regional Entities as third-party beneficiaries continue to maintain the confidentiality of such information.

(d) Except as set forth herein and within the NERC Rules of Procedure, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party or specified third-party beneficiary of this Agreement, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party or specified third-party beneficiary of this Agreement that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party or specified third-party beneficiary of this Agreement to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party or specified third-party beneficiary of this Agreement waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information.

(e) Each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein.

(f) This confidentiality provision does not prohibit reporting and disclosure as

directed by NERC, as set forth in Section 6 of this Agreement, nor does it prohibit permitted disclosures as set forth in the NERC Rules of Procedure.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of SPP under this Agreement without first obtaining the consent of SPP, which consent shall not be unreasonably withheld or delayed. To the extent SPP does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of SPP under this Agreement, SPP shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by SPP to NERC and the Commission, or at such other time as may be mutually agreed by SPP and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and SPP (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to SPP's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. SPP shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating

that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, provided, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), provided, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a

court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. Provided, however, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. All notices, demands, requests, and other communications required, permitted by, or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand, email or overnight courier:

If to NERC:

North American Electric Reliability
Corporation
1325 G Street NW, Suite 600
Washington, DC 20005
Attn: General Counsel
Email: legal@nerc.net

If to SPP:

Southwest Power Pool, Inc.
201 Worthen Drive
Little Rock, Arkansas 72223-4936
Attn: Ron Ciesiel, SPP RE General Manager
Email: rciesiel.re@spp.org

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of Georgia without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in Georgia. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in Georgia for the purpose of hearing and determining any action not heard and determined by the

Commission.

21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. Savings Clause. Nothing in this Agreement shall be construed to preempt or limit any authority that SPP may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. Entire Agreement. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. Execution of Counterparts. This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

SOUTHWEST POWER POOL, INC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

Exhibit A — Regional Boundaries

The geographic boundaries of Southwest Power Pool (SPP) are determined by the service areas of its membership, comprised of investor-owned utilities, municipal, cooperative, state and federal systems, merchant electricity generators and power marketers.

The SPP Regional Entity covers an area of approximately 250,000 square miles of service territory (purple region depicted below) in all or part of eight states: Arkansas, Kansas, Louisiana, New Mexico, Mississippi, Missouri, Oklahoma, and Texas.

Service provided by SPP members in areas which overlap with neighboring regions:

- The area in northeastern Oklahoma is served by Western Farmers Electric Cooperative, Oklahoma Gas & Electric Company, Oklahoma Municipal Power Authority, Grand River Dam Authority, and AEP.
- The area in Arkansas is served by Arkansas Electric Cooperative Corporation, Oklahoma Gas & Electric Company, and AEP.
- The area in western Missouri is served by Empire District Electric Company, City Power & Light (Independence, MO), City Utilities (Springfield, MO), Grand River Dam Authority, Kansas City Power & Light Company, City Power & Light (Independence, MO), and Southwestern Power Administration.

Within the SPP region, compliance monitoring and enforcement functions with respect to reliability functions for which SPP is the registered entity are performed by SERC Reliability Corporation (SERC) pursuant to a contract between SPP and SERC.

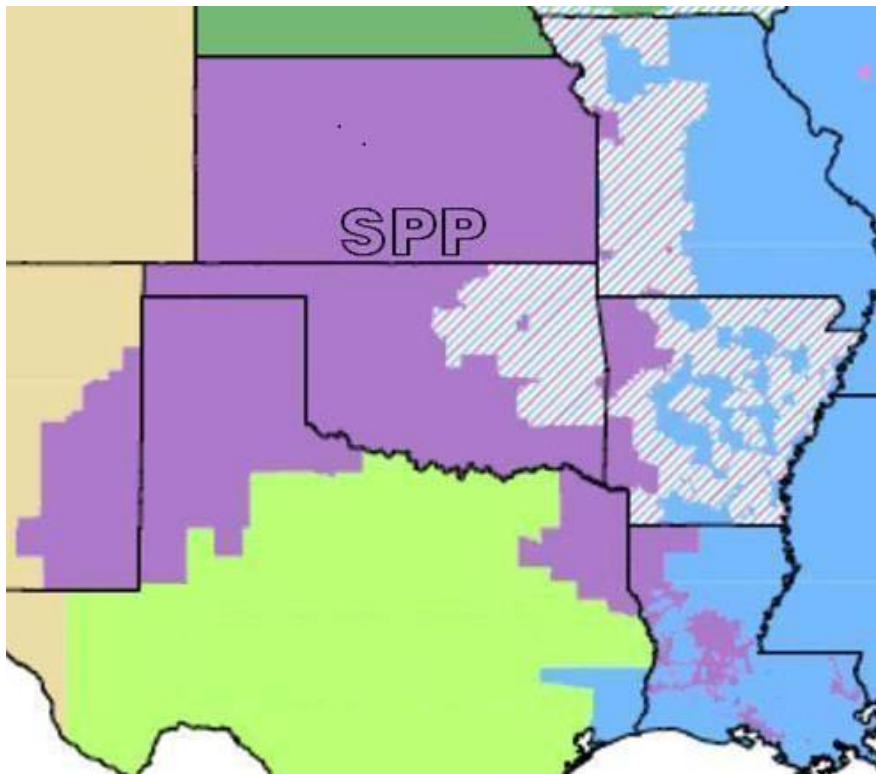


Exhibit B — Governance

The Regional Entity bylaws shall meet the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence from the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

Exhibit C [Intentionally left blank]

Exhibit D — Compliance Monitoring and Enforcement Program

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

SPP will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within **SPP's** geographic or electrical boundaries, and such other scope, set forth in **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

SPP, to the extent required in the Rules of Procedure, shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be either **SPP's** board, a committee of the board, a balanced compliance panel reporting directly to **SPP's** board or an independent hearing panel. **SPP's** hearing body is the SPP Regional Entity Trustees.

To the extent required in the Rules of Procedure, **SPP** shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: None.

3.0 OTHER DECISION-MAKING BODIES

SPP has engaged the SERC Reliability Corporation (SERC) to oversee the compliance monitoring and enforcement responsibility within the SPP region as related to **SPP's** compliance with Reliability Standards requirements that are applicable to the functions for which SPP is a Registered Entity.

Exhibit E — Funding

1. Scope of Activities Funded through the ERO Funding Mechanism

SPP shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

- (a) NERC and SPP, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of SPP's business plan and budget. The annual schedule for the preparation of business plans and budgets shall require SPP (i) to submit to NERC draft(s) of SPP's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by SPP Board of Trustees to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of SPP's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The SPP business plan and budget submission shall include supporting materials, including SPP's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. SPP's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.
- (b) NERC shall review and approve SPP's proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct SPP to make such revisions as NERC deems appropriate prior to approval.

NERC shall submit SPP's approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of SPP's delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. SPP shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying SPP's assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of SPP's assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

- (a) NERC shall submit invoices to the load-serving entities or designees identified by SPP covering the NERC and SPP assessments approved for collection.
- (b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from Applicable Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, SPP shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, SPP is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within SPP's region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within SPP's region.
- (c) Upon approval by Applicable Governmental Authorities of SPP's annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay SPP's annual assessment to SPP in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by SPP, other than penalty monies received from an operational function or division or affiliated entity of SPP, shall be applied as a general offset to SPP's budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational

function or division or affiliated entity of SPP shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for SPP's Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), SPP performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"):

SPP performs non-statutory activities as a Regional Transmission Organization ("RTO"). As a RTO, SPP is mandated by the Commission to ensure reliable supplies of power, adequate transmission infrastructure, and competitive wholesale prices of electricity. In furtherance of this mandate, SPP's specific non-statutory activities are the following primary services:

1. **Tariff Administration:** Independent administration of the Open Access Transmission Tariff that provides one-stop shopping for regional transmission service with consistent rates and terms.
2. **Reliability Coordination:** SPP monitors power flow throughout our footprint. We anticipate problems and take preemptive action to mitigate operating limit violations. SPP coordinates regional response in emergency situations or blackouts.
3. **Regional Scheduling:** SPP ensures that the amount of power sent is coordinated and matched with power received. SPP's regional scheduling service reduces the number of entities with which SPP members and customers have to coordinate.
4. **Market Operations:** SPP administers an Integrated Marketplace, monitors resource/load balance and ensures that less expensive power is used to serve load before expensive power, all while ensuring system reliability is met.
5. **Expansion Planning:** SPP's planning process seeks to identify system limitations and develop transmission upgrades for increased capacity.
6. **Contract Services:** SPP provides reliability, tariff administration, and scheduling for non-members on a contract basis.

SPP shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions:

(i) Separation of funding sources for statutory activities and non-statutory activities. As a RTO, SPP is a public utility under the Federal Power Act, and is required to submit its budget to the Commission. The Commission already has approved SPP's RTO activities and has

ordered that SPP's budgets be filed with the Commission.

SPP's non-statutory activities are funded separately from its Regional Entity statutory activities through the imposition of a Commission-approved Tariff Administration Fee charged by SPP to all load under the SPP Open Access Tariff, except for Contract Services activities, which are funded by contract fees. Additionally, SPP's members are assessed an annual membership fee.

SPP shall provide its budget for such non-statutory activities to NERC at the same time that SPP submits its annual budget to FERC. SPP agrees that no costs of non-statutory activities are to be included in the calculation of SPP's dues, fees, and other charges for its statutory activities.

As provided in section 4(c) of this Exhibit E, on a quarterly basis, NERC will pay SPP an amount equal to one-fourth of the current year approved annual funding amount for SPP's statutory activities. Upon receipt of payment from NERC, SPP will deposit these funds into an account established solely to receive and hold funding received from NERC pursuant to SPP's performance of statutory activities under the Delegation Agreement. On a monthly basis, all expenses incurred by SPP for statutory activities and for non-statutory activities are recorded and paid from the SPP operating account. Throughout the year, as expenses incurred for SPP statutory activities are paid from the SPP operating account, transfers are made from the account established solely to receive and hold funding received from NERC to the SPP operating account in the amounts of payments made for expenses incurred for SPP statutory activities. The RE General Manager shall have primary authority to approve all withdrawal of funds from the SPP Regional Entity bank account. In the event the SPP RE General Manager is unavailable to authorize a funds withdrawal, the SPP RE Board of Trustee Chairman may authorize the withdrawal.

(ii) Separation of costs of statutory activities and non-statutory activities. All employees performing functions directly attributed to SPP's delegated responsibilities who also perform functions related to SPP's non-statutory activities will utilize a time tracking system to accurately reflect their time spent on statutory activities. On a monthly basis, SPP will input the time associated with its direct function staff performing statutory activities into a cost calculation model. Specifically, direct costs attributable to the direct function staff performing statutory activities are salary, SPP-paid medical insurance, Medicare and Social Security taxes, and other SPP-paid benefits. These costs are then combined with other directly assignable costs of statutory activities, such as travel, meetings, contractors, professional services, fees and expenses of Regional Entity independent trustees, and other direct administrative expenses, and reported on the NERC Statement of Activities.

In addition, an allocation of SPP overhead costs to statutory activities is calculated and the allocated overhead costs are recorded on the NERC Statement of Activities. These overhead costs are shared throughout the SPP organization and include costs for facilities, payroll and accounts payable processing, human resources and benefits management, accounting, information technology, executive leadership, corporate affairs and communications, office costs and other support services and expenditures. This allocation is developed on an annual

basis and apportioned monthly using SPP's current year expenses by allocating SPP's shared services support costs which support all of SPP's functions (*i.e.*, the costs for the activities identified in the second sentence of this paragraph) by an appropriate measure (headcount, square footage, number of devices, etc.). An allocation of SPP overhead costs will also be added to the directly assignable staff's hourly rate for those employees performing SPP's statutory activities identified in the first paragraph of this section.

The total expenses for statutory activities in a month as recorded on the NERC Statement of Activities are used to determine the amount of transfer to be made to the SPP operating account to reimburse the SPP operating account for the payment of expenses of SPP's statutory activities. The RE General Manager shall have primary authority to approve all withdrawal of funds from the SPP Regional Entity bank account. In the event the SPP RE General Manager is unavailable to authorize the funds transfer, the SPP RE Board of Trustee Chairman may authorize the funds transfer.

SPP shall provide its budget for such non-statutory activities to NERC at the same time that SPP submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement SPP's budget for non-statutory activities that is provided to NERC shall contain a detailed list of SPP's non-statutory activities and a description of the funding sources for the non-statutory activities. SPP agrees that no costs (which shall include a reasonable allocation of SPP's general and administrative costs) of non-statutory activities are to be included in the calculation of SPP's assessments, dues, fees, and other charges for its statutory activities.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if SPP determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, SPP shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in SPP's approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct SPP to make such revisions as NERC deems appropriate prior to approval. NERC shall submit SPP's approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Records

Upon a request made to SPP with reasonable notice, NERC shall have access to and may review all financial records of SPP Regional Entity, including records used to prepare SPP Regional Entity's financial statements. NERC shall conduct reviews of the quarterly and annual financial statements submitted by SPP pursuant to Section 9(h) and (i) of the Agreement. SPP shall provide supporting documentation for the quarterly and annual

financial statements as reasonably requested by NERC.

**Attachment 8B: REDLINE – Revised Regional Delegation Agreement with
Southwest Power Pool, Inc., on behalf of Southwest Power Pool Regional Entity**

REDLINE TO PRO FORMA RDA

AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION AND ~~REGIONAL ENTITY~~ SOUTHWEST POWER POOL, INC.

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”)

Effective as of January 1, 2016, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and ~~REGIONAL ENTITY~~, Southwest Power Pool, Inc., on behalf of Southwest Power Pool Regional Entity (“SPP”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified in **Exhibit A** to this Agreement, and for other purposes. NERC and ~~REGIONAL ENTITY~~ SPP may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824o) (hereafter “the Act”), which, among other things, provides for the establishment of an Electric Reliability Organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the

delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as ~~[REGIONAL ENTITY]~~, SPP, provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, ~~[REGIONAL ENTITY]~~ ~~is~~ SPP ~~/is not~~ organized on an Interconnection-wide basis and therefore ~~is~~ ~~is not~~ entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through ~~[REGIONAL ENTITY]~~ SPP to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that ~~[REGIONAL ENTITY]~~ SPP meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and ~~{REGIONAL ENTITY}~~SPP, having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and ~~{REGIONAL ENTITY}~~SPP agree as follows:

1. **Definitions.** The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) **Breach** means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) **Cross-Border Regional Entity** means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) **Delegated Authority** means the authority delegated by NERC to ~~{REGIONAL ENTITY}~~SPP to propose and enforce Reliability Standards, consistent with Section 4(d) and the boundaries identified in **Exhibit A** pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. **Representations.**

(a) For purposes of its Delegated Authority, ~~{REGIONAL ENTITY}~~SPP hereby represents and warrants to NERC that:

(i) ~~{REGIONAL ENTITY}~~SPP is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from

executing this Agreement and fulfilling its obligations hereunder. ~~[REGIONAL ENTITY]SPP~~ is governed in accordance with its bylaws by ~~[select appropriate: an independent board/a balanced stakeholder board/a combination independent and balanced stakeholder board]~~. Pursuant to these bylaws, no two industry sectors can control any ~~[REGIONAL ENTITY]SPP~~ decision and no single industry sector can veto any ~~[REGIONAL ENTITY]SPP~~ decision. The relevant criteria for the establishment of such bylaws are attached hereto in **Exhibit B**. No other ~~[REGIONAL ENTITY]SPP~~ corporate governance documents shall be inconsistent with the criteria in **Exhibit B**.

(ii) ~~[REGIONAL ENTITY]SPP~~ has developed a standards development procedure, which provides the process that ~~[REGIONAL ENTITY]SPP~~ may use to develop Regional Reliability Standards ~~[and Regional Variances, if the regional entity is organized on an Interconnection wide basis]~~ that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, ~~[REGIONAL ENTITY]SPP~~ has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within ~~[REGIONAL ENTITY]'sSPP's~~ geographic boundaries as shown in **Exhibit A**.

(b) NERC hereby represents and warrants to ~~[REGIONAL ENTITY]SPP~~ that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

(iii) NERC shall comply with its Certificate of Incorporation, Bylaws and Rules of Procedure, as from time to time adopted, approved or amended.

3. General Covenants.

(a) During the term of this Agreement, ~~[REGIONAL ENTITY]SPP~~ shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC approval, which shall not be unreasonably withheld or

delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) ~~{REGIONAL ENTITY}SPP~~ shall provide NERC with a copy of its Regional Entity Rules upon request by NERC.

(c) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of ~~{REGIONAL ENTITY}SPP~~ under this Agreement without first obtaining the consent of ~~{REGIONAL ENTITY},SPP~~, which consent shall not be unreasonably withheld or delayed.

(d) During the term of this Agreement, NERC and ~~{REGIONAL ENTITY}SPP~~ shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

(e) For purposes of this Agreement, NERC shall collaborate with the Regional Entities in the development of guidance, policies and procedures, and oversight parameters as contemplated by this Agreement. In the event that collaboration is not successful on any such matter, the NERC President may issue a directive with respect to such matter pursuant to Section 8 herein, and such directive shall be binding upon ~~{REGIONAL ENTITY},SPP~~.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of ~~{REGIONAL ENTITY}SPP~~ in this Agreement, ~~{REGIONAL ENTITY}'s}SPP's~~ corporate governance documents, ~~the {REGIONAL ENTITY}'s}SPP's~~ standards development process, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to ~~{REGIONAL ENTITY}SPP~~ for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth in **Exhibit A**, provided, that ~~{REGIONAL ENTITY}SPP~~ shall not monitor and enforce compliance with Reliability

Standards for ~~{REGIONAL ENTITY}SPP~~ or an affiliated entity with respect to reliability functions for which ~~{REGIONAL ENTITY}SPP~~ or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to ~~{REGIONAL ENTITY}SPP~~ within, or additions to this delegation of authority to ~~{REGIONAL ENTITY}SPP~~ beyond, the geographic boundaries set forth in **Exhibit A** are stated in **Exhibit A**.

(b) In circumstances where ~~{REGIONAL ENTITY}SPP~~ or an affiliated entity is a Registered Entity, ~~{REGIONAL ENTITY}SPP~~ shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce ~~{REGIONAL ENTITY}'sSPP's~~ or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit ~~{REGIONAL ENTITY}SPP~~ from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified in **Exhibit A** that is within the United States. Any delegation of authority by Applicable Governmental Authorities in Canada or Mexico shall be governed by the law of such authority or a separate agreement and is outside the scope of this Agreement; provided, however, that both ~~{REGIONAL ENTITY}SPP~~ and NERC shall endeavor to ensure that this Agreement and any such separate agreement are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, ~~{REGIONAL ENTITY}SPP~~ shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, ~~{REGIONAL ENTITY}SPP~~ shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords ~~{REGIONAL ENTITY}SPP~~ reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards ~~{and Regional Variances, if Regional Entity is organized on an Interconnection-wide basis}~~ through ~~{REGIONAL ENTITY}'sSPP's~~ process. ~~{REGIONAL ENTITY}'sSPP's~~ process shall be consistent with the NERC Rules of Procedure and Commission directives. Any changes to ~~{REGIONAL ENTITY}'sSPP's~~ process shall be submitted to the NERC Board of Trustees for approval and upon approval, be submitted to the Commission for approval. Proposals approved through ~~{REGIONAL ENTITY}'sSPP's~~ process shall be reviewed by the NERC Board of Trustees after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board of Trustees shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. ~~{REGIONAL ENTITY}SPP~~ may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, ~~{REGIONAL ENTITY}SPP~~ shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the boundaries set forth in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and ~~{REGIONAL ENTITY}SPP~~ agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, inter alia, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. ~~{REGIONAL ENTITY}SPP~~ may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, ~~{REGIONAL ENTITY}SPP~~ agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board of Trustees or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) ~~{REGIONAL ENTITY}SPP~~ shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual ERO Compliance Monitoring and Enforcement Program Implementation Plan.

(c) ~~{REGIONAL ENTITY}SPP~~ shall report promptly to NERC information regarding noncompliance with a Reliability Standard, and its eventual disposition by ~~{REGIONAL ENTITY}SPP~~, as set forth in, and subject to the confidentiality and disclosure provisions of, the NERC Rules of Procedure, the NERC Compliance Monitoring and Enforcement Program, this Agreement, compliance and enforcement program procedures and guidance that NERC may from time to time develop and the ERO Regulations. NERC shall promptly forward such report to the Commission, as required by the ERO Regulations, or as the Commission shall from time to time direct. NERC and ~~{REGIONAL ENTITY}SPP~~ shall cooperate in filing such periodic summary reports and analyses as the Commission shall from time to time direct.

(d) All dispositions by ~~[REGIONAL ENTITY]SPP~~ of noncompliance with Reliability Standards shall be reported to NERC for review. NERC shall develop and implement policies and procedures for the review and, where appropriate, approval of dispositions of noncompliance.

(e) As part of its compliance monitoring and enforcement program, ~~[REGIONAL ENTITY]SPP~~ shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

~~(f) — [For Regional Entities with such agreements: [REGIONAL ENTITY] may also perform compliance monitoring and enforcement activities outside of the boundaries shown in Exhibit A, on behalf of a Regional Entity that is unable to perform such activities with respect to one or more registered entities within its footprint due to a conflict of interest. Such activities shall be performed pursuant to a contract between [REGIONAL ENTITY] and other such Regional Entity that is approved by both NERC and the Commission.]~~

7. Delegation-Related Activities

NERC will engage ~~[REGIONAL ENTITY]SPP~~ on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed in **Exhibit E**. NERC may from time to time develop policies or procedures, which shall be used by ~~[REGIONAL ENTITY]SPP~~ in the performance of the delegation-related activities. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (g), each of which shall be considered a statutory activity:

(a) **Certification of Bulk-Power System Entities.** The NERC Board of Trustees shall set criteria for certification in accordance with the NERC Rules of Procedure. Certifications shall be issued in accordance with the NERC Rules of Procedure.

(b) Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.

(i) The NERC Board of Trustees shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by ~~[REGIONAL ENTITY]SPP~~ and other Regional Entities. ~~[REGIONAL ENTITY]SPP~~ shall provide timely and accurate information relating to registrations to NERC, as needed, to enable NERC to maintain a registration database that is accurate and up-to-date and to enable NERC to satisfy its monthly reporting obligation.

(iii) The NERC Board of Trustees Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board of Trustees Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) Reliability Assessment and Performance Analysis. ~~[REGIONAL ENTITY]SPP~~ shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. ~~[REGIONAL ENTITY]SPP~~ shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives, and policies and procedures related to data-gathering, quality control, forms, and reporting mechanisms that NERC may from time to time develop.

(d) Event Analysis and Reliability Improvement. ~~[REGIONAL ENTITY]SPP~~ shall conduct event analysis pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop. NERC and ~~[REGIONAL ENTITY]SPP~~ shall coordinate event analysis to support the effective and efficient

use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, ~~{REGIONAL ENTITY}SPP~~ shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) **Training and Education.** ~~{REGIONAL ENTITY}SPP~~ may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) **Situation Awareness.** ~~{REGIONAL ENTITY}SPP~~ shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System.

(g) **Critical Infrastructure Security.** ~~{REGIONAL ENTITY}SPP~~ shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of ~~{REGIONAL ENTITY}'sSPP's~~ performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and ~~{REGIONAL ENTITY}SPP~~ that matters relating to NERC's oversight of ~~{REGIONAL ENTITY}'sSPP's~~ performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and ~~{REGIONAL ENTITY}SPP~~ and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with ~~{REGIONAL ENTITY}SPP~~

and other Regional Entities, performance goals, performance reports, measures and other parameters (including, without limiting the scope of such goals, financial performance goals), which shall be used to measure NERC's and ~~{REGIONAL ENTITY}'s SPP's~~ performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. ~~{REGIONAL ENTITY}SPP~~ shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate ~~{REGIONAL ENTITY}'s SPP's~~ performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters, and performance reports to evaluate ~~{REGIONAL ENTITY}'s SPP's~~ performance of its delegated functions and related activities and to provide advice and direction to ~~{REGIONAL ENTITY}SPP~~ on performance improvements. The performance goals, measures and other parameters, and the values of such goals, measures and parameters, shall be reviewed by NERC, ~~{REGIONAL ENTITY}SPP~~ and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, ~~{REGIONAL ENTITY}SPP~~ shall be required to develop, submit for NERC approval, and implement action plans to address, areas of its performance that are reasonably determined by NERC, based on analysis of ~~{REGIONAL ENTITY}'s SPP's~~ performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring ~~{REGIONAL ENTITY}SPP~~ to adopt and implement an action plan or other remedial action, NERC shall issue a notice to ~~{REGIONAL ENTITY}SPP~~ of the need and basis for an action plan or other remedial action and provide an opportunity for ~~{REGIONAL ENTITY}SPP~~ to submit a written response contesting NERC's evaluation of ~~{REGIONAL ENTITY}'s SPP's~~ performance and the need for an action plan. ~~{REGIONAL ENTITY}SPP~~ may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board of Trustees review and reconsider the request. NERC and ~~{REGIONAL ENTITY}SPP~~ shall work collaboratively as needed in the development and implementation of ~~{REGIONAL ENTITY}'s SPP's~~ action plan. A final action plan submitted by ~~{REGIONAL ENTITY}SPP~~ to NERC shall be made public unless the President of NERC makes a written determination that

the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to ~~{REGIONAL ENTITY}SPP~~ standardized training and education programs, which shall be designed taking into account input from ~~{REGIONAL ENTITY}SPP~~ and other Regional Entities, for ~~{REGIONAL ENTITY}SPP~~ personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to ~~{REGIONAL ENTITY}SPP~~ concerning the manner in which ~~{REGIONAL ENTITY}SPP~~ shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered “directives.” NERC shall initiate the development of a directive through a collaborative process with ~~{REGIONAL ENTITY}SPP~~ and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and ~~{REGIONAL ENTITY}SPP~~ and, if applicable, other Regional Entities, are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, ~~{REGIONAL ENTITY}SPP~~, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by ~~{REGIONAL ENTITY}SPP~~, the NERC Board of Trustees (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without ~~{REGIONAL ENTITY}SPP~~'s agreement, *provided*, that ~~{REGIONAL ENTITY}SPP~~ shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and ~~{REGIONAL ENTITY}SPP~~ and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the

directive will be made public, *provided*, that it is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board of Trustees (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which ~~[REGIONAL ENTITY]~~SPP, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The NERC Board of Trustees or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the NERC Board of Trustees or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. ~~[REGIONAL ENTITY]~~SPP, either individually or in conjunction with other Regional Entities, may request that the NERC Board of Trustees or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with ~~[REGIONAL ENTITY]~~SPP, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) NERC may perform reviews of ~~[REGIONAL ENTITY]~~SPP on a reasonable periodicity to determine ~~[REGIONAL ENTITY]~~SPP's compliance with this Agreement, any policies or procedures established by NERC, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c) and to monitor the implementation of guidance and directions issued by the NERC Board of Trustees pursuant to Section 8(d). All such periodic reviews shall comply with the NERC Rules of Procedure and Commission directives.

(g) The Commission and the Commission staff shall have full access to action plans and remedial actions, directives, and directions and guidance issued pursuant to subsections (a)(iii), (c)(iv) and (d), respectively, that are maintained as non-public.

9. **Funding.** ~~[REGIONAL ENTITY]SPP~~ and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) ~~[REGIONAL ENTITY]SPP~~ shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. ~~[REGIONAL ENTITY]'sSPP's~~ proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, ~~[REGIONAL ENTITY]SPP~~ to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E**. ~~[REGIONAL ENTITY]'sSPP's~~ business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) ~~[REGIONAL ENTITY]SPP~~ and NERC agree that the portion of ~~[REGIONAL ENTITY]'sSPP's~~ approved budget for the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by ~~[REGIONAL ENTITY]SPP~~ and approved by NERC and the Commission. If ~~[REGIONAL ENTITY]SPP~~ proposes to use a formula other than Net Energy for Load beginning in the following year, ~~[REGIONAL ENTITY]SPP~~ shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and ~~[REGIONAL ENTITY]SPP~~ to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those

Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide ~~{REGIONAL ENTITY}SPP~~ with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) ~~{REGIONAL ENTITY}SPP~~ shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E**, as well as for all other activities of ~~{REGIONAL ENTITY}SPP~~, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund ~~{REGIONAL ENTITY}'sSPP's~~ performance of its Delegated Authority and related activities in accordance with ~~{REGIONAL ENTITY}'sSPP's~~ Commission- approved business plan and budget, in the amount of ~~{REGIONAL ENTITY}'sSPP's~~ assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting ~~{REGIONAL ENTITY}'sSPP's~~ approved assessments from end users and other entities and payment of the approved assessment amount to ~~{REGIONAL ENTITY}SPP~~, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon ~~{REGIONAL ENTITY}SPP~~ that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without ~~{REGIONAL ENTITY}'sSPP's~~ consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and ~~{REGIONAL ENTITY}SPP~~ fiscal year budget with the actual results at the NERC and Regional Entity levels. ~~{REGIONAL ENTITY}SPP~~ shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from

the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) ~~{REGIONAL ENTITY}SPP~~ shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) ~~{REGIONAL ENTITY}SPP~~ shall submit audited financial statements annually, including supporting materials, in a form provided by NERC, by no later than the date reasonably required and designated in writing by NERC to enable NERC to assemble and file the required annual budget to actual true up filing with the Commission.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which ~~{REGIONAL ENTITY}SPP~~ shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of ~~{REGIONAL ENTITY}SPP~~) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which ~~{REGIONAL ENTITY}SPP~~ shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of ~~{REGIONAL ENTITY}SPP~~. *Provided*, that, subject to approval by NERC and the Commission, ~~{REGIONAL ENTITY}SPP~~ may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. ~~{REGIONAL ENTITY}SPP~~ may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit ~~{REGIONAL ENTITY}SPP~~ from contracting with other entities to assist it in carrying out its Delegated Authority, provided ~~{REGIONAL ENTITY}SPP~~ retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice

of such Breach to the breaching Party (the “Default Notice”). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on ~~January 1, 2016~~ (the “Effective Date”).

(b) The term of this Agreement shall commence on the Effective Date, and shall have an initial term of five years (the “Term”), ending on December 31, 2020. Thereafter, the Term shall automatically extend for one additional five-year term unless either Party shall provide written notice of termination of this Agreement to the other no later than one year prior to the then effective expiration of the Term. In such event, this Agreement shall terminate upon the expiration of then effective Term, unless otherwise mutually agreed to by the Parties.

(c) In the event of the termination of this Agreement, the Parties shall work to provide for a transition of ~~REGIONAL ENTITY~~’s SPP’s Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement.

(d) If any provision of this Agreement, or the application thereof to any person, entity

or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by ~~REGIONAL ENTITY~~SPP and NERC.

(e) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. ~~REGIONAL ENTITY~~SPP and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and ~~REGIONAL ENTITY~~SPP shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of ~~REGIONAL ENTITY~~'sSPP's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that ~~REGIONAL ENTITY~~SPP or NERC is found liable for gross negligence or intentional misconduct, in which case ~~REGIONAL ENTITY~~SPP or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party, except as otherwise specifically provided herein and in Section 15(c).

15. Confidentiality.

(a) During the course of the Parties' performance under this Agreement, a Party may receive proprietary, business sensitive, or critical infrastructure information ("Confidential Information") necessary to fulfill its respective obligations in connection with this Agreement. The Parties agree that their mutual objective under this provision is to provide appropriate protection for Confidential Information, while maintaining the ability to conduct their respective business activities.

(b) No obligation of confidentiality shall apply to any information that the recipient: (i) already possesses without obligation of confidentiality; (ii) develops independently; or (iii) rightfully receives without any obligation of confidentiality from a third party.

(c) The Parties may transfer or exchange such Confidential Information with and between the other Regional Entities as third-party beneficiaries of the terms of this Agreement, provided the Parties and the other Regional Entities as third-party beneficiaries continue to maintain the confidentiality of such information.

(d) Except as set forth herein and within the NERC Rules of Procedure, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party or specified third-party beneficiary of this Agreement, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party or specified third-party beneficiary of this Agreement that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party or specified third-party beneficiary of this Agreement to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party or specified third-party beneficiary of this

Agreement waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information.

(e) Each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein.

(f) This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement, nor does it prohibit permitted disclosures as set forth in the NERC Rules of Procedure.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of ~~{REGIONAL ENTITY}SPP~~ under this Agreement without first obtaining the consent of ~~{REGIONAL ENTITY},SPP~~, which consent shall not be unreasonably withheld or delayed. To the extent ~~{REGIONAL ENTITY}SPP~~ does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of ~~{REGIONAL ENTITY}SPP~~ under this Agreement, ~~{REGIONAL ENTITY}SPP~~ shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by ~~{REGIONAL ENTITY}SPP~~ to NERC and the Commission, or at such other time as may be mutually agreed by ~~{REGIONAL ENTITY}SPP~~ and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and ~~{REGIONAL ENTITY}SPP~~ (including disputes relating to NERC's performance of its

obligations under this Agreement and/or disputes relating to ~~REGIONAL ENTITY~~'s SPP's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. ~~REGIONAL ENTITY~~ SPP shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, provided, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty

(20) business days immediately following the time period described in subsection (c), provided, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. Provided, however, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. All notices, demands, requests, and other communications required, permitted by, or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand, email or overnight courier:

If to NERC:

If to ~~{REGIONAL ENTITY}~~SPP:

North American Electric Reliability
Corporation
1325 G Street NW, Suite 600
Washington, DC 20005
Attn: General Counsel
Email: legal@nerc.net

Southwest Power Pool, Inc.
201 Worthen Drive
Little Rock, Arkansas 72223-4936
Attn: Ron Ciesiel, SPP RE General Manager
Email: rciesiel.re@spp.org

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of Georgia without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in Georgia. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in Georgia for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. Savings Clause. Nothing in this Agreement shall be construed to preempt or limit any authority that ~~{REGIONAL ENTITY}~~SPP may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region

described in **Exhibit A**.

23. Entire Agreement. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. Execution of Counterparts. This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

~~[REGIONAL ENTITY]~~SOUTHWEST
POWER POOL, INC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

Exhibit A — Regional Boundaries

~~Exhibit A to the delegation agreement for each Regional Entity receiving Delegated Authority shall describe the geographic or electrical boundaries covered by the proposed delegation of authority. Exhibit A for each Regional Entity shall reflect coordination with neighboring Regional Entities, as appropriate, to ensure that all relevant areas are either included within the geographic boundaries of a Regional Entity or specifically identified as not being within the geographic boundaries of any Regional Entity. Any exclusions of geographic or electrical areas or of Registered Entities from the scope of the Regional Entity's Delegated Authority within the geographic or electrical boundaries shown in Exhibit A, and any additions of geographic or electrical areas or of Registered Entities located outside the boundaries shown in Exhibit A to the scope of the Regional Entity's Delegated Authority, shall be specifically stated or described in Exhibit A.~~

The geographic boundaries of Southwest Power Pool (SPP) are determined by the service areas of its membership, comprised of investor-owned utilities, municipal, cooperative, state and federal systems, merchant electricity generators and power marketers.

The SPP Regional Entity covers an area of approximately 250,000 square miles of service territory (purple region depicted below) in all or part of eight states: Arkansas, Kansas, Louisiana, New Mexico, Mississippi, Missouri, Oklahoma, and Texas.

Service provided by SPP members in areas which overlap with neighboring regions:

- The area in northeastern Oklahoma is served by Western Farmers Electric Cooperative, Oklahoma Gas & Electric Company, Oklahoma Municipal Power Authority, Grand River Dam Authority, and AEP.
- The area in Arkansas is served by Arkansas Electric Cooperative Corporation, Oklahoma Gas & Electric Company, and AEP.
- The area in western Missouri is served by Empire District Electric Company, City Power & Light (Independence, MO), City Utilities (Springfield, MO), Grand River Dam Authority, Kansas City Power & Light Company, City Power & Light (Independence, MO), and Southwestern Power Administration.

Within the SPP region, compliance monitoring and enforcement functions with respect to reliability functions for which SPP is the registered entity are performed by SERC Reliability Corporation (SERC) pursuant to a contract between SPP and SERC.

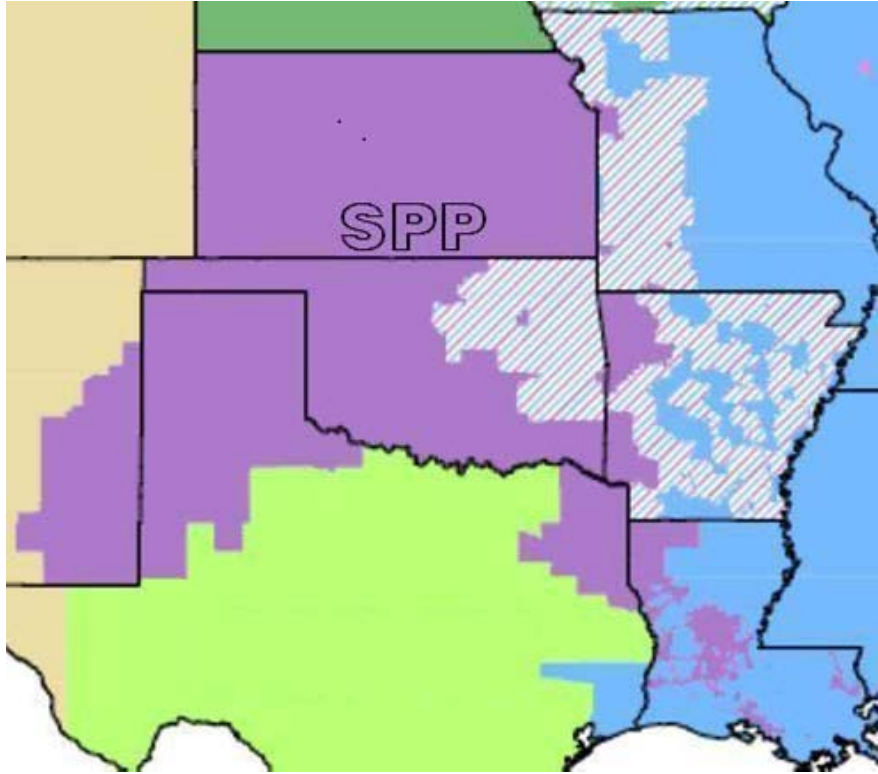


Exhibit B — Governance

The Regional Entity bylaws shall meet the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence from the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

Exhibit C [Intentionally left blank]

Exhibit D — Compliance Monitoring and Enforcement Program

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

~~[REGIONAL ENTITY]SPP~~ will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within ~~[REGIONAL ENTITY]'sSPP's~~ geographic or electrical boundaries, and such other scope, set forth in **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

~~[REGIONAL ENTITY],SPP,~~ to the extent required in the Rules of Procedure, shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be either ~~[REGIONAL ENTITY]'sSPP's~~ board, a committee of the board, a balanced compliance panel reporting directly to ~~[REGIONAL ENTITY]'sSPP's~~ board or an independent hearing panel. ~~[REGIONAL ENTITY]'sSPP's~~ hearing body is the SPP Regional Entity Trustees. ~~[its board] [if not the board, insert the name of the committee or group serving as the hearing body].~~

~~[If the hearing body is a compliance panel other than the board, provide here a description of how the members of the compliance panel are selected and the qualifications to be selected for the compliance panel.]~~

To the extent required in the Rules of Procedure, ~~[REGIONAL ENTITY]SPP~~ shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: ~~[Describe any deviations, or state "None." If there are deviations from the NERC pro forma Hearing Procedures, [REGIONAL ENTITY]'s Hearing Procedures shall be included as a separate attachment to this Exhibit D.]None.~~

3.0 OTHER DECISION-MAKING BODIES

~~If [REGIONAL ENTITY] uses other decision-making bodies within its compliance program, provide here a description of the function of that body to the extent not described elsewhere in the Agreement or exhibits, how the members of that body are selected, and the qualifications to be selected for that body.]~~

SPP has engaged the SERC Reliability Corporation (SERC) to oversee the compliance monitoring and enforcement responsibility within the SPP region as related to SPP's compliance with Reliability Standards requirements that are applicable to the functions for which SPP is a Registered Entity.

Exhibit E — Funding

1. Scope of Activities Funded through the ERO Funding Mechanism

~~{Regional Entity}SPP~~ shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

- (a) NERC and ~~{Regional Entity},SPP~~, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of ~~{Regional Entity}'s}SPP's~~ business plan and budget. The annual schedule for the preparation of business plans and budgets shall require ~~{Regional Entity}SPP~~ (i) to submit to NERC draft(s) of ~~{Regional Entity}'s}SPP's~~ proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by ~~{Regional Entity}SPP~~ Board of Trustees to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of ~~{Regional Entity}'s}SPP's~~ business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The ~~{Regional Entity}SPP~~ business plan and budget submission shall include supporting materials, including ~~{Regional Entity}'s}SPP's~~ complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. ~~{Regional Entity}'s}SPP's~~ business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.
- (b) NERC shall review and approve ~~{Regional Entity}'s}SPP's~~ proposed business plan and budget and proposed assessments for performing the delegated functions and related

activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct ~~[Regional Entity]SPP~~ to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~[Regional Entity]'sSPP's~~ approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of ~~[REGIONAL ENTITY]'sSPP's~~ delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. ~~[Regional Entity]SPP~~ shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying ~~[Regional Entity's]SPP's~~ assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of ~~[Regional Entity's]SPP's~~ assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

4. Collection of Funding

~~[IF NERC WILL BILL AND COLLECT ASSESSMENTS DIRECTLY FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):]~~

~~(a) _____~~ NERC shall submit invoices to the load-serving entities or designees identified by ~~[Regional Entity]SPP~~ covering the NERC and ~~[Regional Entity]SPP~~ assessments approved for collection.

~~[IF THE REGIONAL ENTITY WILL ACT AS THE BILLING AND COLLECTION AGENT ON BEHALF OF NERC TO BILL AND COLLECT ASSESSMENTS FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):]~~

~~(a) _____~~ NERC and ~~[Regional Entity]~~ agree that ~~[Regional Entity]~~ shall act as the billing and collection agent on behalf of NERC to bill and collect ~~[Regional Entity]'s~~ assessments from load-serving entities and designees (or such other entities as agreed by NERC and ~~[Regional Entity]~~). ~~[Regional Entity]~~ agrees that it shall (i) issue all invoices to load-serving entities and other entities in a prompt and timely manner after receipt from NERC of the information needed to issue the invoices; (ii) exercise commercially reasonable efforts to collect invoices that are not paid as of the due date(s); and (iii) transfer all funds collected to NERC in a timely manner, as follows: Prior to the start of each calendar quarter, and once per week thereafter until all billings for the quarter are collected, ~~[Regional Entity]~~ will electronically transfer to NERC, in immediately available funds, all payments received-

~~by [Regional Entity] from load-serving entities or other entities for payment of invoices. On the same day that [Regional Entity] makes each electronic transfer of funds to NERC, [Regional Entity] shall send an email to the Chief Financial Officer or Controller of NERC detailing the collections being transmitted, including a listing of the load-serving entities or other entities from which payments were collected and the amount collected from each entity. [Note: If NERC and Regional Entity have a different collection and payment arrangement, the preceding two sentences will be modified accordingly to describe it.]~~

~~[Regional Entity] agrees that it shall not in any way use its position as billing and collection agent for NERC to attempt to influence NERC's policies or decisions on matters relating to adoption of Reliability Standards (including Regional Reliability Standards and Regional Variances), administration of the compliance monitoring and enforcement program and other compliance and enforcement matters, determination and imposition of penalties and sanctions, budgeting matters including review and approval of [Regional Entity's] budgets and business plans, or any other NERC decisions, including by issuing invoices, engaging in collection activities or transferring funds collected to NERC in an untimely manner or other than in accordance with this Agreement.~~

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from Applicable Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, [Regional Entity]SPP shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, [Regional Entity]SPP is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within [REGIONAL ENTITY]'sSPP's region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within [Regional Entity]'sSPP's region.

(c) Upon approval by Applicable Governmental Authorities of [Regional Entity]'sSPP's annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay [Regional Entity's]SPP's annual assessment to Regional EntitySPP in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by [Regional Entity],SPP, other than penalty monies received from an operational function or division or affiliated entity of [Regional Entity],SPP, shall be applied as a general offset to [Regional Entity]'sSPP's budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of [Regional Entity]SPP shall be transmitted to or retained by NERC and shall

be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for ~~{Regional Entity's}~~SPP's Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), ~~{Regional Entity}~~SPP performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"): ~~{List and describe all non-statutory activities performed by Regional Entity, or state "None."}~~

SPP performs non-statutory activities as a Regional Transmission Organization ("RTO"). As a RTO, SPP is mandated by the Commission to ensure reliable supplies of power, adequate transmission infrastructure, and competitive wholesale prices of electricity. In furtherance of this mandate, SPP's specific non-statutory activities are the following primary services:

1. Tariff Administration: Independent administration of the Open Access Transmission Tariff that provides one-stop shopping for regional transmission service with consistent rates and terms.
2. Reliability Coordination: SPP monitors power flow throughout our footprint. We anticipate problems and take preemptive action to mitigate operating limit violations. SPP coordinates regional response in emergency situations or blackouts.
3. Regional Scheduling: SPP ensures that the amount of power sent is coordinated and matched with power received. SPP's regional scheduling service reduces the number of entities with which SPP members and customers have to coordinate.
4. Market Operations: SPP administers an Integrated Marketplace, monitors resource/load balance and ensures that less expensive power is used to serve load before expensive power, all while ensuring system reliability is met.
5. Expansion Planning: SPP's planning process seeks to identify system limitations and develop transmission upgrades for increased capacity.
6. Contract Services: SPP provides reliability, tariff administration, and scheduling for non-members on a contract basis.

~~{Regional Entity} SPP shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions: {List and describe the methods and procedures Regional Entity employs to keep costs and funding of statutory activities separate from costs and funding of non-statutory activities, including at a minimum a description of how Regional Entity's bank accounts and~~

~~receivables/payables procedures are set up for both statutory and non-statutory functions, a description of how Regional Entity ensures each employee involved in both statutory and non-statutory functions keeps accurate time records reflecting his/her activities, and a description of how Regional Entity's general and administrative costs are allocated between statutory activities and non-statutory activities. If the necessary descriptions are lengthy they may be provided in a separate attachment labeled "Attachment E-1", and state here "See Attachment E-1." If Regional Entity has listed no non-statutory functions in the preceding paragraph, state here "Not applicable."}]~~

(i) Separation of funding sources for statutory activities and non-statutory activities. As a RTO, SPP is a public utility under the Federal Power Act, and is required to submit its budget to the Commission. The Commission already has approved SPP's RTO activities and has ordered that SPP's budgets be filed with the Commission.

SPP's non-statutory activities are funded separately from its Regional Entity statutory activities through the imposition of a Commission-approved Tariff Administration Fee charged by SPP to all load under the SPP Open Access Tariff, except for Contract Services activities, which are funded by contract fees. Additionally, SPP's members are assessed an annual membership fee.

SPP shall provide its budget for such non-statutory activities to NERC at the same time that SPP submits its annual budget to FERC. SPP agrees that no costs of non-statutory activities are to be included in the calculation of SPP's dues, fees, and other charges for its statutory activities.

As provided in section 4(c) of this Exhibit E, on a quarterly basis, NERC will pay SPP an amount equal to one-fourth of the current year approved annual funding amount for SPP's statutory activities. Upon receipt of payment from NERC, SPP will deposit these funds into an account established solely to receive and hold funding received from NERC pursuant to SPP's performance of statutory activities under the Delegation Agreement. On a monthly basis, all expenses incurred by SPP for statutory activities and for non-statutory activities are recorded and paid from the SPP operating account. Throughout the year, as expenses incurred for SPP statutory activities are paid from the SPP operating account, transfers are made from the account established solely to receive and hold funding received from NERC to the SPP operating account in the amounts of payments made for expenses incurred for SPP statutory activities. The RE General Manager shall have primary authority to approve all withdrawal of funds from the SPP Regional Entity bank account. In the event the SPP RE General Manager is unavailable to authorize a funds withdrawal, the SPP RE Board of Trustee Chairman may authorize the withdrawal.

(ii) Separation of costs of statutory activities and non-statutory activities. All employees performing functions directly attributed to SPP's delegated responsibilities who also perform functions related to SPP's non-statutory activities will utilize a time tracking system to accurately reflect their time spent on statutory activities. On a monthly basis, SPP will input the time associated with its direct function staff performing statutory activities into a cost calculation model. Specifically, direct costs attributable to the direct function staff

performing statutory activities are salary, SPP-paid medical insurance, Medicare and Social Security taxes, and other SPP-paid benefits. These costs are then combined with other directly assignable costs of statutory activities, such as travel, meetings, contractors, professional services, fees and expenses of Regional Entity independent trustees, and other direct administrative expenses, and reported on the NERC Statement of Activities.

In addition, an allocation of SPP overhead costs to statutory activities is calculated and the allocated overhead costs are recorded on the NERC Statement of Activities. These overhead costs are shared throughout the SPP organization and include costs for facilities, payroll and accounts payable processing, human resources and benefits management, accounting, information technology, executive leadership, corporate affairs and communications, office costs and other support services and expenditures. This allocation is developed on an annual basis and apportioned monthly using SPP's current year expenses by allocating SPP's shared services support costs which support all of SPP's functions (i.e., the costs for the activities identified in the second sentence of this paragraph) by an appropriate measure (headcount, square footage, number of devices, etc.). An allocation of SPP overhead costs will also be added to the directly assignable staff's hourly rate for those employees performing SPP's statutory activities identified in the first paragraph of this section.

The total expenses for statutory activities in a month as recorded on the NERC Statement of Activities are used to determine the amount of transfer to be made to the SPP operating account to reimburse the SPP operating account for the payment of expenses of SPP's statutory activities. The RE General Manager shall have primary authority to approve all withdrawal of funds from the SPP Regional Entity bank account. In the event the SPP RE General Manager is unavailable to authorize the funds transfer, the SPP RE Board of Trustee Chairman may authorize the funds transfer.

~~{Regional Entity}SPP shall provide its budget for such non-statutory activities to NERC at the same time that {Regional Entity} SPP submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. {Regional Entity's} SPP's budget for non-statutory activities that is provided to NERC shall contain a detailed list of {Regional Entity's}SPP's non-statutory activities and a description of the funding sources for the non-statutory activities. {Regional Entity}SPP agrees that no costs (which shall include a reasonable allocation of {Regional Entity}'sSPP's general and administrative costs) of non-statutory activities are to be included in the calculation of {Regional Entity's}SPP's assessments, dues, fees, and other charges for its statutory activities.~~

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if ~~{Regional Entity}SPP~~ determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, ~~{Regional Entity}SPP~~ shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in ~~{Regional Entity}'sSPP's~~ approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment,

or shall direct ~~{Regional Entity}SPP~~ to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~{Regional Entity}'sSPP's~~ approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Records

Upon a request made to ~~{Regional Entity}SPP~~ with reasonable notice, NERC shall have access to and may review all financial records of ~~{SPP Regional Entity}~~, including records used to prepare ~~{SPP Regional Entity}'s}~~ financial statements. NERC shall conduct reviews of the quarterly and annual financial statements submitted by ~~{Regional Entity}SPP~~ pursuant to Section 9(h) and (i) of the Agreement. ~~{Regional Entity}SPP~~ shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC.

**Attachment 9A: CLEAN – Revised Regional Delegation Agreement with
Texas Reliability Entity, Inc.**

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
AND TEXAS RELIABILITY ENTITY, INC.**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”)

Effective as of January 1, 2016, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and Texas Reliability Entity, Inc. (“Texas RE”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified in **Exhibit A** to this Agreement, and for other purposes. NERC and Texas RE may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824o) (hereafter “the Act”), which, among other things, provides for the establishment of an Electric Reliability Organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the delegation by the ERO of authority to propose and enforce Reliability Standards to regional

entities (“Regional Entities”) such as Texas RE, provided that:

- (A) The Regional Entity is governed by —
 - (i) an independent board;
 - (ii) a balanced stakeholder board; or
 - (iii) a combination independent and balanced stakeholder board.
- (B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2)

of the Act; and

- (C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, Texas RE is organized on an Interconnection-wide basis and therefore is entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through Texas RE to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that Texas RE meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and Texas RE, having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the

benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and Texas RE agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to Texas RE to propose and enforce Reliability Standards, consistent with Section 4(d) and the boundaries identified in **Exhibit A** pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. Representations.

(a) For purposes of its Delegated Authority, Texas RE hereby represents and warrants to NERC that:

(i) Texas RE is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. Texas RE is governed in accordance with its bylaws by a combination independent and balanced stakeholder board. Pursuant to these bylaws, no two

industry sectors can control any Texas RE decision and no single industry sector can veto any Texas RE decision. The relevant criteria for the establishment of such bylaws are attached hereto in **Exhibit B**. No other Texas RE corporate governance documents shall be inconsistent with the criteria in **Exhibit B**.

(ii) Texas RE has developed a standards development procedure, which provides the process that Texas RE may use to develop Regional Reliability Standards and Regional Variances that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, Texas RE has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within Texas RE's geographic boundaries as shown in **Exhibit A**.

(b) NERC hereby represents and warrants to Texas RE that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

(iii) NERC shall comply with its Certificate of Incorporation, Bylaws and Rules of Procedure, as from time to time adopted, approved or amended.

3. General Covenants.

(a) During the term of this Agreement, Texas RE shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) Texas RE shall provide NERC with a copy of its Regional Entity Rules upon request by NERC.

(c) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of Texas RE under this Agreement without first obtaining the consent of Texas RE, which consent shall not be unreasonably withheld or delayed.

(d) During the term of this Agreement, NERC and Texas RE shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

(e) For purposes of this Agreement, NERC shall collaborate with the Regional Entities in the development of guidance, policies and procedures, and oversight parameters as contemplated by this Agreement. In the event that collaboration is not successful on any such matter, the NERC President may issue a directive with respect to such matter pursuant to Section 8 herein, and such directive shall be binding upon Texas RE.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of Texas RE in this Agreement, Texas RE's corporate governance documents, Texas RE's standards development process, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to Texas RE for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth in **Exhibit A**, provided, that Texas RE shall not monitor and enforce compliance with Reliability Standards for Texas RE or an affiliated entity with respect to reliability functions for which Texas RE or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to Texas RE within, or additions to this delegation of authority to Texas RE beyond, the geographic boundaries set forth in **Exhibit A** are stated in **Exhibit A**.

(b) In circumstances where Texas RE or an affiliated entity is a Registered Entity, Texas RE shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce Texas RE's or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit Texas RE from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified in **Exhibit A** that is within the United States. Any delegation of authority by Applicable Governmental Authorities in Canada or Mexico shall be governed by the law of such authority or a separate agreement and is outside the scope of this Agreement; provided, however, that both Texas RE and NERC shall endeavor to ensure that this Agreement and any such separate agreement are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, Texas RE shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, Texas RE shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords Texas RE reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards and Regional Variances through Texas RE's process. Texas RE's process shall be consistent with the NERC Rules of Procedure and Commission directives. Any changes to Texas RE's process shall be submitted to the NERC Board of Trustees for approval and upon approval, be submitted to the Commission for approval. Proposals approved through Texas RE's process shall be reviewed by the NERC Board of Trustees after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure

312.3 as it may be amended from time to time. The NERC Board of Trustees shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. Texas RE may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, Texas RE shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the boundaries set forth in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and Texas RE agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, inter alia, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. Texas RE may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, Texas RE agrees to comply with the NERC Rules of

Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board of Trustees or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) Texas RE shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual ERO Compliance Monitoring and Enforcement Program Implementation Plan.

(c) Texas RE shall report promptly to NERC information regarding noncompliance with a Reliability Standard, and its eventual disposition by Texas RE, as set forth in, and subject to the confidentiality and disclosure provisions of, the NERC Rules of Procedure, the NERC Compliance Monitoring and Enforcement Program, this Agreement, compliance and enforcement program procedures and guidance that NERC may from time to time develop and the ERO Regulations. NERC shall promptly forward such report to the Commission, as required by the ERO Regulations, or as the Commission shall from time to time direct. NERC and Texas RE shall cooperate in filing such periodic summary reports and analyses as the Commission shall from time to time direct.

(d) All dispositions by Texas RE of noncompliance with Reliability Standards shall be reported to NERC for review. NERC shall develop and implement policies and procedures for the review and, where appropriate, approval of dispositions of noncompliance.

(e) As part of its compliance monitoring and enforcement program, Texas RE shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

7. Delegation-Related Activities.

NERC will engage Texas RE on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the

Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed in **Exhibit E**. NERC may from time to time develop policies or procedures, which shall be used by Texas RE in the performance of the delegation-related activities. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (g), each of which shall be considered a statutory activity:

(a) **Certification of Bulk-Power System Entities.** The NERC Board of Trustees shall set criteria for certification in accordance with the NERC Rules of Procedure. Certifications shall be issued in accordance with the NERC Rules of Procedure.

(b) **Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.**

(i) The NERC Board of Trustees shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by Texas RE and other Regional Entities. Texas RE shall provide timely and accurate information relating to registrations to NERC, as needed, to enable NERC to maintain a registration database that is accurate and up-to-date and to enable NERC to satisfy its monthly reporting obligation.

(iii) The NERC Board of Trustees Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board of Trustees Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) **Reliability Assessment and Performance Analysis.** Texas RE shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. Texas RE shall also develop

and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives, and policies and procedures related to data-gathering, quality control, forms, and reporting mechanisms that NERC may from time to time develop.

(d) **Event Analysis and Reliability Improvement.** Texas RE shall conduct event analysis pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop. NERC and Texas RE shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, Texas RE shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) **Training and Education.** Texas RE may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) **Situation Awareness.** Texas RE shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System.

(g) **Critical Infrastructure Security.** Texas RE shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of Texas RE's performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and Texas RE that matters

relating to NERC's oversight of Texas RE's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and Texas RE and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with Texas RE and other Regional Entities, performance goals, performance reports, measures and other parameters (including, without limiting the scope of such goals, financial performance goals), which shall be used to measure NERC's and Texas RE's performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. Texas RE shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate Texas RE's performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters, and performance reports to evaluate Texas RE's performance of its delegated functions and related activities and to provide advice and direction to Texas RE on performance improvements. The performance goals, measures and other parameters, and the values of such goals, measures and parameters, shall be reviewed by NERC, Texas RE and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, Texas RE shall be required to develop, submit for NERC approval, and implement action plans to address, areas of its performance that are reasonably determined by NERC, based on analysis of Texas RE's performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring Texas RE to adopt and implement an action plan or other remedial action, NERC shall issue a notice to Texas RE of the need and basis for an action plan or other remedial action and provide an opportunity for Texas RE to submit a written response contesting NERC's evaluation of Texas RE's

performance and the need for an action plan. Texas RE may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board of Trustees review and reconsider the request. NERC and Texas RE shall work collaboratively as needed in the development and implementation of Texas RE's action plan. A final action plan submitted by Texas RE to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to Texas RE standardized training and education programs, which shall be designed taking into account input from Texas RE and other Regional Entities, for Texas RE personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to Texas RE concerning the manner in which Texas RE shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered "directives." NERC shall initiate the development of a directive through a collaborative process with Texas RE and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and Texas RE and, if applicable, other Regional Entities, are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, Texas RE, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by Texas RE, the NERC Board of Trustees (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without Texas RE's agreement, *provided*, that Texas RE shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and Texas RE and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that it is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board of Trustees (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which Texas RE, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The NERC Board of Trustees or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the NERC Board of Trustees or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. Texas RE, either individually or in conjunction with other Regional Entities, may request that the NERC Board of Trustees or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with Texas RE, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) NERC may perform reviews of Texas RE on a reasonable periodicity to determine Texas RE's compliance with this Agreement, any policies or procedures established by NERC, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c) and to monitor the implementation of guidance and directions issued by the NERC Board of Trustees pursuant to Section 8(d). All such periodic reviews shall comply with the NERC Rules of

Procedure and Commission directives.

(g) The Commission and the Commission staff shall have full access to action plans and remedial actions, directives, and directions and guidance issued pursuant to subsections (a)(iii), (c)(iv) and (d), respectively, that are maintained as non-public.

9. Funding. Texas RE and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) Texas RE shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. Texas RE's proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, Texas RE to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E**. Texas RE's business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) Texas RE and NERC agree that the portion of Texas RE's approved budget for the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by Texas RE and approved by NERC and the Commission. If Texas RE proposes to use a formula other than Net Energy for Load beginning in the following year, Texas RE shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and Texas RE to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide Texas RE with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) Texas RE shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E**, as well as for all other activities of Texas RE, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund Texas RE's performance of its Delegated Authority and related activities in accordance with Texas RE's Commission-approved business plan and budget, in the amount of Texas RE's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting Texas RE's approved assessments from end users and other entities and payment of the approved assessment amount to Texas RE, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon Texas RE that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without Texas RE's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and Texas RE fiscal year budget with the actual results at the NERC and Regional Entity levels. Texas RE shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of

accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) Texas RE shall submit unaudited quarterly interim financial statements in a form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) Texas RE shall submit audited financial statements annually, including supporting materials, in a form provided by NERC, by no later than the date reasonably required and designated in writing by NERC to enable NERC to assemble and file the required annual budget to actual true up filing with the Commission.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which Texas RE shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of Texas RE) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which Texas RE shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of Texas RE. *Provided*, that, subject to approval by NERC and the Commission, Texas RE may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. Texas RE may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit Texas RE from contracting with other entities to assist it in carrying out its Delegated Authority, provided Texas RE retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days

from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on January 1, 2016 (the “Effective Date”).

(b) The term of this Agreement shall commence on the Effective Date, and shall have initial term of five years (the “Term”), ending on December 31, 2020. Thereafter, the Term shall automatically extend for one additional five-year term unless either Party shall provide written notice of termination of this Agreement to the other no later than one year prior to the then effective expiration of the Term. In such event, this Agreement shall terminate upon the expiration of then effective Term, unless otherwise mutually agreed to by the Parties.

(c) In the event of the termination of this Agreement, the Parties shall work to provide for a transition of Texas RE’s Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement.

(d) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the

relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by Texas RE and NERC.

(e) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. Texas RE and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and Texas RE shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of Texas RE's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that Texas RE or NERC is found liable for gross negligence or intentional misconduct, in which case Texas RE or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party, except as otherwise specifically provided herein and in Section 15(c).

15. Confidentiality.

(a) During the course of the Parties' performance under this Agreement, a Party may

receive proprietary, business sensitive, or critical infrastructure information (“Confidential Information”) necessary to fulfill its respective obligations in connection with this Agreement. The Parties agree that their mutual objective under this provision is to provide appropriate protection for Confidential Information, while maintaining the ability to conduct their respective business activities.

(b) No obligation of confidentiality shall apply to any information that the recipient: (i) already possesses without obligation of confidentiality; (ii) develops independently; or (iii) rightfully receives without any obligation of confidentiality from a third party.

(c) The Parties may transfer or exchange such Confidential Information with and between the other Regional Entities as third-party beneficiaries of the terms of this Agreement, provided the Parties and the other Regional Entities as third-party beneficiaries continue to maintain the confidentiality of such information.

(d) Except as set forth herein and within the NERC Rules of Procedure, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party or specified third-party beneficiary of this Agreement, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party or specified third-party beneficiary of this Agreement that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party or specified third-party beneficiary of this Agreement to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party or specified third-party beneficiary of this Agreement waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient’s counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information.

(e) Each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors’ employees, and agents to whom Confidential Information is

exposed are under obligations of confidentiality that are at least as restrictive as those contained herein.

(f) This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement, nor does it prohibit permitted disclosures as set forth in the NERC Rules of Procedure.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of Texas RE under this Agreement without first obtaining the consent of Texas RE, which consent shall not be unreasonably withheld or delayed. To the extent Texas RE does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of Texas RE under this Agreement, Texas RE shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by Texas RE to NERC and the Commission, or at such other time as may be mutually agreed by Texas RE and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and Texas RE (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to Texas RE's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. Texas RE shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution

procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, provided, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), provided, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated

representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. Provided, however, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. All notices, demands, requests, and other communications required, permitted by, or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand, email or overnight courier:

If to NERC:

North American Electric Reliability
Corporation
1325 G Street NW, Suite 600
Washington, DC 20005
Attn: General Counsel
Email: legal@nerc.net

If to Texas RE:

Texas Reliability Entity, Inc.
805 Las Cimas Parkway
Suite 200
Austin, Texas 78746
Attn: General Counsel
Email: legal@texasre.org

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of Georgia without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this

Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in Georgia. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in Georgia for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. Savings Clause. Nothing in this Agreement shall be construed to preempt or limit any authority that Texas RE may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. Entire Agreement. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. Execution of Counterparts. This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

TEXAS RELIABILITY ENTITY, INC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

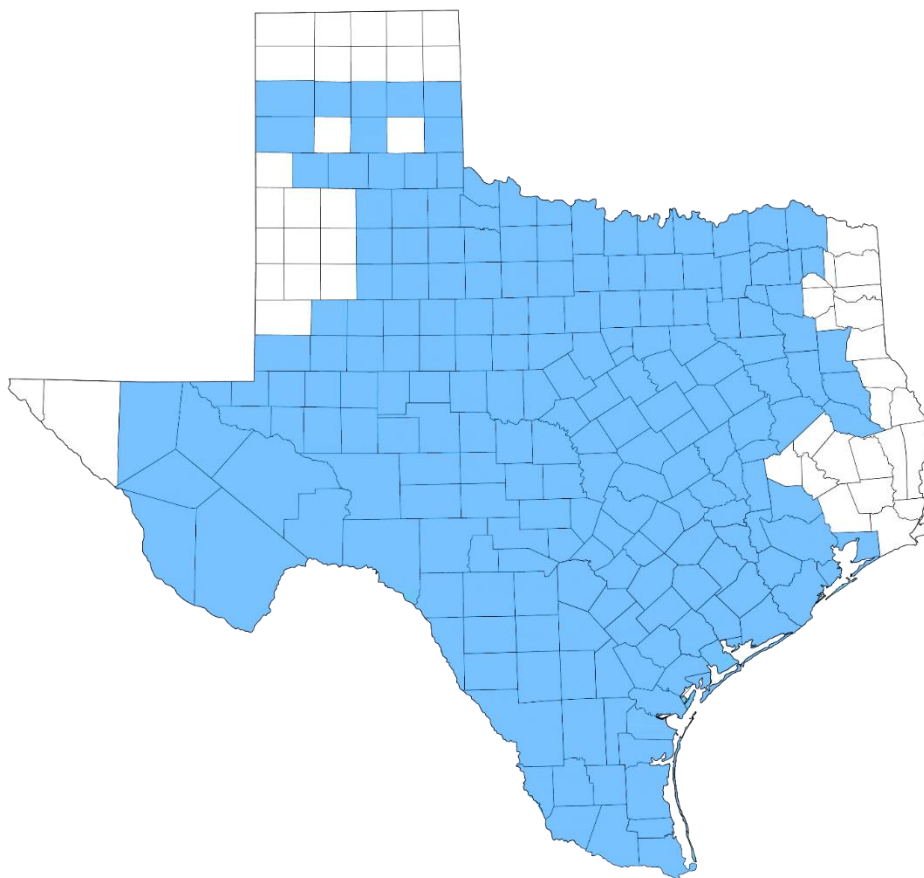
Title: _____

Date: _____

Date: _____

Exhibit A — Regional Boundaries

The Electric Reliability Council of Texas (ERCOT) region is the geographic area and associated transmission and distribution facilities that are not synchronously interconnected with electric utilities operating outside the jurisdiction of the Public Utility Commission of Texas (PUCT). The ERCOT region does not interconnect synchronously across state lines to import or export power with neighboring reliability regions. The ERCOT geographic region includes 200,000 square miles, 90% of Texas load, and 75% of Texas land area but does not include the Panhandle (with the exception of certain Competitive Energy Renewable Zone transmission lines), El Paso area, and two areas of East Texas. The ERCOT region includes the following Texas cities and towns: Dallas, Ft. Worth, Houston, San Antonio, Austin, Paris, Tyler, Nacogdoches, Lufkin, Bryan, College Station, Corpus Christi, Harlingen, Brownsville, Laredo, Brownwood, San Angelo, Abilene, Midland, Odessa, Fort Stockton, Monahans, Snyder, Vernon, Wichita Falls, Denton, Garland, Greenville, Waco, Temple, Killeen, Weatherford, and Graham, as indicated on the map below.



*Map shows approximate geographic areas for general information only and does not indicate areas where service providers overlap.

Exhibit B — Governance

The Regional Entity bylaws shall meet the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence from the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

Exhibit C [Intentionally left blank]

Exhibit D — Compliance Monitoring and Enforcement Program

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

Texas RE will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within **Texas RE's** geographic or electrical boundaries, and such other scope, set forth in **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

Texas RE, to the extent required in the Rules of Procedure, shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be either **Texas RE's** board, a committee of the board, a balanced compliance panel reporting directly to **Texas RE's** board or an independent hearing panel. **Texas RE's** hearing body is a committee of the board comprised of a portion of the Texas RE Directors, with a majority of independent directors.

To the extent required in the Rules of Procedure, **Texas RE** shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, as set forth in the Texas RE Hearing Body Charter:

- (a) The Hearing Body will attend the evidentiary hearing so that the members can hear and weigh the evidence presented and assess the credibility of the witnesses.
- (b) Following post-hearing briefing, the Hearing Body will convene to deliberate and make an initial determination of the disputed issues based on the evidence admitted during the proceedings. The Hearing Body will issue an Initial Opinion reflecting the decisions of the Hearing Body in accordance with the Hearing Procedures.

3.0 OTHER DECISION-MAKING BODIES

None

Exhibit E — Funding

1. Scope of Activities Funded through the ERO Funding Mechanism

Texas RE shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and Texas RE, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of Texas RE's business plan and budget. The annual schedule for the preparation of business plans and budgets shall require Texas RE (i) to submit to NERC draft(s) of Texas RE's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by Texas RE Board of Directors to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of Texas RE's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The Texas RE business plan and budget submission shall include supporting materials, including Texas RE's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. Texas RE's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve Texas RE's proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct Texas RE to make such revisions as NERC deems appropriate

prior to approval. NERC shall submit Texas RE's approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of Texas RE's delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. Texas RE shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying Texas RE's assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of Texas RE's assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used. NERC and Texas RE agree that for purposes of Sections 3 and 4 of this **Exhibit E**, Electric Reliability Council of Texas (ERCOT ISO), as the sole independent system operator and Balancing Authority, is the only load-serving entity or designee in Texas RE's region and shall be invoiced for the entire NERC and Texas RE assessments approved for collection.

4. Collection of Funding

(a) NERC shall submit invoices to the load-serving entities or designees identified by Texas RE covering the NERC and Texas RE assessments approved for collection.

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from Applicable Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, Texas RE shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, Texas RE is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within Texas RE's region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within Texas RE's region.

(c) Upon approval by Applicable Governmental Authorities of Texas RE's annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay Texas RE's annual assessment to Regional Entity in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by Texas RE,

other than penalty monies received from an operational function or division or affiliated entity of Texas RE, shall be applied as a general offset to Texas RE's budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of Texas RE shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for Texas RE's Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), Texas RE performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"):

Texas RE performs non-statutory activities as the ERCOT region Reliability Monitor on behalf of the Public Utility Commission of Texas ("PUCT"). As the Reliability Monitor, Texas RE audits and investigates market participants' compliance with ERCOT Protocols and Operating Guides (ERCOT regional rules), reports possible non-compliance with reliability-related regional rules to the PUCT, and provides testimony and support to the PUCT in enforcement cases prosecuted by the PUCT. These non-statutory activities are funded through the ERCOT ISO system administration fee and payment to Texas RE is authorized by the PUCT. Texas RE shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions:

- A. Texas RE segregates the funding for its statutory activities and non-statutory activities by recording the funding transactions in separate and distinct general ledger accounts, in accordance with Generally Accepted Accounting Principles.
- B. Texas RE utilizes and must maintain a time recording and expense management system under which employee time and expenses incurred in the conduct of non-statutory activities will be tracked to ensure that they are not funded by NERC remittances intended for the funding of statutory activities.
- C. Texas RE has adopted a detailed system of Account Codes, Department Codes and Activity Codes which are used in recording expenses. The Activity Codes are specific to statutory activities and non-statutory activities. The Texas RE Activity Codes are modeled on the NERC Functional Categories. Texas RE shall use Department Codes that are unique to Texas RE to record all costs and expenses incurred by Texas RE for statutory activities and non-statutory activities.
- D. Texas RE shall use Activity Codes to appropriately track its costs for statutory activities separately from its costs for non-statutory activities.

- E. Where employee time or an expense affects multiple activities, Texas RE will use an accurate basis of allocation of the time or expense between the activities being performed based on specific metrics, such as time tracking, data observations or total cost input. Total cost input relates the portion of the expense to the total expense to establish an appropriate method to allocate.

Texas RE shall provide its budget for such non-statutory activities to NERC at the same time that Texas RE submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. Texas RE's budget for non-statutory activities that is provided to NERC shall contain a detailed list of Texas RE's non-statutory activities and a description of the funding sources for the non-statutory activities. Texas RE agrees that no costs (which shall include a reasonable allocation of Texas RE's general and administrative costs) of non-statutory activities are to be included in the calculation of Texas RE's assessments, dues, fees, and other charges for its statutory activities.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if Texas RE determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, Texas RE shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in Texas RE's approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct Texas RE to make such revisions as NERC deems appropriate prior to approval. NERC shall submit Texas RE's approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Records

Upon a request made to Texas RE with reasonable notice, NERC shall have access to and may review all financial records of Texas RE, including records used to prepare Texas RE's financial statements. NERC shall conduct reviews of the quarterly and annual financial statements submitted by Texas RE pursuant to Section 9(h) and (i) of the Agreement. Texas RE shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC.

**Attachment 9B: REDLINE – Revised Regional Delegation Agreement with
Texas Reliability Entity, Inc.**

REDLINE TO PRO FORMA RDA

AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION AND ~~REGIONAL ENTITY~~ TEXAS RELIABILITY ENTITY, INC.

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”)

Effective as of January 1, 2016, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and ~~REGIONAL ENTITY~~ Texas Reliability Entity, Inc. (“Texas RE”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified in **Exhibit A** to this Agreement, and for other purposes. NERC and ~~REGIONAL ENTITY~~ Texas RE may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824o) (hereafter “the Act”), which, among other things, provides for the establishment of an Electric Reliability Organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the

delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as ~~{REGIONAL ENTITY}~~, Texas RE, provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, ~~{REGIONAL ENTITY}~~ Texas RE ~~is/is not~~ organized on an Interconnection-wide basis and therefore ~~{is/is not}~~ entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through ~~{REGIONAL ENTITY}~~ Texas RE to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that ~~{REGIONAL ENTITY}~~ Texas RE meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and ~~[REGIONAL ENTITY]~~Texas RE, having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and ~~[REGIONAL ENTITY]~~Texas RE agree as follows:

1. **Definitions.** The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) **Breach** means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) **Cross-Border Regional Entity** means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) **Delegated Authority** means the authority delegated by NERC to ~~[REGIONAL ENTITY]~~Texas RE to propose and enforce Reliability Standards, consistent with Section 4(d) and the boundaries identified in **Exhibit A** pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. **Representations.**

(a) For purposes of its Delegated Authority, ~~[REGIONAL ENTITY]~~Texas RE hereby represents and warrants to NERC that:

(i) ~~[REGIONAL ENTITY]~~Texas RE is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from

executing this Agreement and fulfilling its obligations hereunder. ~~{REGIONAL ENTITY}~~Texas RE is governed in accordance with its bylaws by ~~{select appropriate: an independent board/a balanced stakeholder board/}~~ a combination independent and balanced stakeholder board~~}. Pursuant to these bylaws, no two industry sectors can control any {REGIONAL ENTITY}Texas RE decision and no single industry sector can veto any {REGIONAL ENTITY}Texas RE decision. The relevant criteria for the establishment of such bylaws are attached hereto in Exhibit B. No other {REGIONAL ENTITY}Texas RE corporate governance documents shall be inconsistent with the criteria in Exhibit B.~~

(ii) ~~{REGIONAL ENTITY}Texas RE has developed a standards development procedure, which provides the process that {REGIONAL ENTITY}Texas RE may use to develop Regional Reliability Standards {and Regional Variances, if the regional entity is organized on an Interconnection wide basis}~~ that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, ~~{REGIONAL ENTITY}Texas RE~~ has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within ~~{REGIONAL ENTITY}'sTexas RE's~~ geographic boundaries as shown in **Exhibit A**.

(b) NERC hereby represents and warrants to ~~{REGIONAL ENTITY}Texas RE~~ that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

(iii) NERC shall comply with its Certificate of Incorporation, Bylaws and Rules of Procedure, as from time to time adopted, approved or amended.

3. **General Covenants.**

(a) During the term of this Agreement, ~~{REGIONAL ENTITY}Texas RE~~ shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC approval, which shall not be unreasonably withheld or

delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) ~~{REGIONAL ENTITY}~~Texas RE shall provide NERC with a copy of its Regional Entity Rules upon request by NERC.

(c) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of ~~{REGIONAL ENTITY}~~Texas RE under this Agreement without first obtaining the consent of ~~{REGIONAL ENTITY}~~Texas RE, which consent shall not be unreasonably withheld or delayed.

(d) During the term of this Agreement, NERC and ~~{REGIONAL ENTITY}~~Texas RE shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

(e) For purposes of this Agreement, NERC shall collaborate with the Regional Entities in the development of guidance, policies and procedures, and oversight parameters as contemplated by this Agreement. In the event that collaboration is not successful on any such matter, the NERC President may issue a directive with respect to such matter pursuant to Section 8 herein, and such directive shall be binding upon ~~{REGIONAL ENTITY}~~Texas RE.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of ~~{REGIONAL ENTITY}~~Texas RE in this Agreement, ~~{REGIONAL ENTITY}'s}~~Texas RE's corporate governance documents, ~~the {REGIONAL ENTITY}'s}~~Texas RE's standards development process, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to ~~{REGIONAL ENTITY}~~Texas RE for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth in **Exhibit A**, provided, that ~~{REGIONAL ENTITY}~~Texas RE shall not monitor and enforce compliance with

Reliability Standards for ~~[REGIONAL ENTITY]~~Texas RE or an affiliated entity with respect to reliability functions for which ~~[REGIONAL ENTITY]~~Texas RE or an affiliate is a Registered Entity. Any exclusions from this delegation of authority to ~~[REGIONAL ENTITY]~~Texas RE within, or additions to this delegation of authority to ~~[REGIONAL ENTITY]~~Texas RE beyond, the geographic boundaries set forth in **Exhibit A** are stated in **Exhibit A**.

(b) In circumstances where ~~[REGIONAL ENTITY]~~Texas RE or an affiliated entity is a Registered Entity, ~~[REGIONAL ENTITY]~~Texas RE shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce ~~[REGIONAL ENTITY]~~'s Texas RE's or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit ~~[REGIONAL ENTITY]~~Texas RE from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified in **Exhibit A** that is within the United States. Any delegation of authority by Applicable Governmental Authorities in Canada or Mexico shall be governed by the law of such authority or a separate agreement and is outside the scope of this Agreement; provided, however, that both ~~[REGIONAL ENTITY]~~Texas RE and NERC shall endeavor to ensure that this Agreement and any such separate agreement are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, ~~[REGIONAL ENTITY]~~Texas RE shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, ~~[REGIONAL ENTITY]~~Texas RE shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords ~~[REGIONAL ENTITY]~~Texas RE reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards ~~and Regional Variances, if Regional Entity is organized on an Interconnection-wide basis~~ through ~~[REGIONAL ENTITY]'s~~Texas RE's process. ~~[REGIONAL ENTITY]'s~~Texas RE's process shall be consistent with the NERC Rules of Procedure and Commission directives. Any changes to ~~[REGIONAL ENTITY]'s~~Texas RE's process shall be submitted to the NERC Board of Trustees for approval and upon approval, be submitted to the Commission for approval. Proposals approved through ~~[REGIONAL ENTITY]'s~~Texas RE's process shall be reviewed by the NERC Board of Trustees after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board of Trustees shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. ~~[REGIONAL ENTITY]~~Texas RE may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, ~~{REGIONAL ENTITY}~~Texas RE shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the boundaries set forth in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and ~~{REGIONAL ENTITY}~~Texas RE agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, inter alia, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. ~~{REGIONAL ENTITY}~~Texas RE may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, ~~{REGIONAL ENTITY}~~Texas RE agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board of Trustees or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) ~~{REGIONAL ENTITY}~~Texas RE shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual ERO Compliance Monitoring and Enforcement Program Implementation Plan.

(c) ~~{REGIONAL ENTITY}~~Texas RE shall report promptly to NERC information regarding noncompliance with a Reliability Standard, and its eventual disposition by ~~{REGIONAL ENTITY}~~Texas RE, as set forth in, and subject to the confidentiality and disclosure provisions of, the NERC Rules of Procedure, the NERC Compliance Monitoring and Enforcement Program, this Agreement, compliance and enforcement program procedures and guidance that NERC may from time to time develop and the ERO Regulations. NERC shall promptly forward such report to the Commission, as required by the ERO Regulations, or as the Commission shall from time to time direct. NERC and ~~{REGIONAL ENTITY}~~Texas RE shall cooperate in filing such periodic summary reports and analyses as the Commission shall from time to time direct.

(d) All dispositions by ~~[REGIONAL ENTITY]~~Texas RE of noncompliance with Reliability Standards shall be reported to NERC for review. NERC shall develop and implement policies and procedures for the review and, where appropriate, approval of dispositions of noncompliance.

(e) As part of its compliance monitoring and enforcement program, ~~[REGIONAL ENTITY]~~Texas RE shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. A Regional Entity may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

~~(f) — [For Regional Entities with such agreements: [REGIONAL ENTITY] may also perform compliance monitoring and enforcement activities outside of the boundaries shown in Exhibit A, on behalf of a Regional Entity that is unable to perform such activities with respect to one or more registered entities within its footprint due to a conflict of interest. Such activities shall be performed pursuant to a contract between [REGIONAL ENTITY] and other such Regional Entity that is approved by both NERC and the Commission.]~~

7. Delegation-Related Activities.

NERC will engage ~~[REGIONAL ENTITY]~~Texas RE on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed in **Exhibit E**. NERC may from time to time develop policies or procedures, which shall be used by ~~[REGIONAL ENTITY]~~Texas RE in the performance of the delegation-related activities. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (g), each of which shall be considered a statutory activity:

(a) **Certification of Bulk-Power System Entities.** The NERC Board of Trustees shall set criteria for certification in accordance with the NERC Rules of Procedure. Certifications shall be issued in accordance with the NERC Rules of Procedure.

(b) Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.

(i) The NERC Board of Trustees shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by ~~{REGIONAL ENTITY}~~Texas RE and other Regional Entities. ~~{REGIONAL ENTITY}~~Texas RE shall provide timely and accurate information relating to registrations to NERC, as needed, to enable NERC to maintain a registration database that is accurate and up-to-date and to enable NERC to satisfy its monthly reporting obligation.

(iii) The NERC Board of Trustees Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board of Trustees Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) Reliability Assessment and Performance Analysis. ~~{REGIONAL ENTITY}~~Texas RE shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. ~~{REGIONAL ENTITY}~~Texas RE shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives, and policies and procedures related to data-gathering, quality control, forms, and reporting mechanisms that NERC may from time to time develop.

(d) Event Analysis and Reliability Improvement. ~~{REGIONAL ENTITY}~~Texas RE shall conduct event analysis pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time

develop. NERC and ~~{REGIONAL ENTITY}~~Texas RE shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, ~~{REGIONAL ENTITY}~~Texas RE shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) **Training and Education.** ~~{REGIONAL ENTITY}~~Texas RE may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) **Situation Awareness.** ~~{REGIONAL ENTITY}~~Texas RE shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System.

(g) **Critical Infrastructure Security.** ~~{REGIONAL ENTITY}~~Texas RE shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of ~~{REGIONAL ENTITY}~~'sTexas RE's performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and ~~{REGIONAL ENTITY}~~Texas RE that matters relating to NERC's oversight of ~~{REGIONAL ENTITY}~~'sTexas RE's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and ~~{REGIONAL ENTITY}~~Texas RE and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with ~~{REGIONAL ENTITY}~~Texas RE and other Regional Entities, performance goals, performance reports, measures and other parameters (including, without limiting the scope of such goals, financial performance goals), which shall be used to measure NERC's and ~~{REGIONAL ENTITY}'s~~Texas RE's performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. ~~{REGIONAL ENTITY}~~Texas RE shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate ~~{REGIONAL ENTITY}'s~~Texas RE's performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters, and performance reports to evaluate ~~{REGIONAL ENTITY}'s~~Texas RE's performance of its delegated functions and related activities and to provide advice and direction to ~~{REGIONAL ENTITY}~~Texas RE on performance improvements. The performance goals, measures and other parameters, and the values of such goals, measures and parameters, shall be reviewed by NERC, ~~{REGIONAL ENTITY}~~Texas RE and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, ~~{REGIONAL ENTITY}~~Texas RE shall be required to develop, submit for NERC approval, and implement action plans to address, areas of its performance that are reasonably determined by NERC, based on analysis of ~~{REGIONAL ENTITY}'s~~Texas RE's performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring ~~{REGIONAL ENTITY}~~Texas RE to adopt and implement an action plan or other remedial action, NERC shall issue a notice to ~~{REGIONAL ENTITY}~~Texas RE of the need and basis for an action plan or other remedial action and provide an opportunity for ~~{REGIONAL ENTITY}~~Texas RE to submit a written response contesting NERC's evaluation of ~~{REGIONAL ENTITY}'s~~Texas RE's performance and the need for an action plan. ~~{REGIONAL ENTITY}~~Texas RE may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board of Trustees review and reconsider the request. NERC and ~~{REGIONAL ENTITY}~~Texas RE shall work collaboratively as needed in

the development and implementation of ~~{REGIONAL ENTITY}~~'s Texas RE's action plan. A final action plan submitted by ~~{REGIONAL ENTITY}~~Texas RE to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to ~~{REGIONAL ENTITY}~~Texas RE standardized training and education programs, which shall be designed taking into account input from ~~{REGIONAL ENTITY}~~Texas RE and other Regional Entities, for ~~{REGIONAL ENTITY}~~Texas RE personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to ~~{REGIONAL ENTITY}~~Texas RE concerning the manner in which ~~{REGIONAL ENTITY}~~Texas RE shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered "directives." NERC shall initiate the development of a directive through a collaborative process with ~~{REGIONAL ENTITY}~~Texas RE and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and ~~{REGIONAL ENTITY}~~Texas RE and, if applicable, other Regional Entities, are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, ~~{REGIONAL ENTITY}~~Texas RE, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by ~~{REGIONAL ENTITY}~~Texas RE, the NERC Board of Trustees (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without ~~{REGIONAL ENTITY}~~'s Texas RE's agreement, *provided*, that ~~{REGIONAL ENTITY}~~Texas RE shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and ~~{REGIONAL ENTITY}~~Texas RE and, if applicable, other

Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that it is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board of Trustees (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which ~~{REGIONAL ENTITY}~~,Texas RE, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The NERC Board of Trustees or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the NERC Board of Trustees or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. ~~{REGIONAL ENTITY}~~,Texas RE, either individually or in conjunction with other Regional Entities, may request that the NERC Board of Trustees or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with ~~{REGIONAL ENTITY}~~,Texas RE, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) NERC may perform reviews of ~~{REGIONAL ENTITY}~~,Texas RE on a reasonable periodicity to determine ~~{REGIONAL ENTITY}~~'sTexas RE's compliance with this Agreement, any policies or procedures established by NERC, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c) and to monitor the implementation of guidance and directions issued by the NERC Board of Trustees pursuant to Section 8(d). All such periodic reviews shall comply with the NERC Rules of Procedure and Commission directives.

(g) The Commission and the Commission staff shall have full access to action plans and remedial actions, directives, and directions and guidance issued pursuant to subsections (a)(iii), (c)(iv) and (d), respectively, that are maintained as non-public.

9. **Funding.** ~~{REGIONAL ENTITY}~~Texas RE and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) ~~{REGIONAL ENTITY}~~Texas RE shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. ~~{REGIONAL ENTITY}~~'sTexas RE's proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, ~~{REGIONAL ENTITY}~~Texas RE to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E**. ~~{REGIONAL ENTITY}~~'sTexas RE's business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) ~~{REGIONAL ENTITY}~~Texas RE and NERC agree that the portion of ~~{REGIONAL ENTITY}~~'sTexas RE's approved budget for the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by ~~{REGIONAL ENTITY}~~Texas RE and approved by NERC and the Commission. If ~~{REGIONAL ENTITY}~~Texas RE proposes to use a formula other than Net Energy for Load beginning in the following year, ~~{REGIONAL ENTITY}~~Texas RE shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and ~~{REGIONAL ENTITY}~~Texas RE to the Commission pursuant to the ERO Regulations for such

year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide ~~{REGIONAL ENTITY}~~Texas RE with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) ~~{REGIONAL ENTITY}~~Texas RE shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E**, as well as for all other activities of ~~{REGIONAL ENTITY}~~Texas RE, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund ~~{REGIONAL ENTITY}~~'sTexas RE's performance of its Delegated Authority and related activities in accordance with ~~{REGIONAL ENTITY}~~'sTexas RE's Commission-approved business plan and budget, in the amount of ~~{REGIONAL ENTITY}~~'sTexas RE's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting ~~{REGIONAL ENTITY}~~'sTexas RE's approved assessments from end users and other entities and payment of the approved assessment amount to ~~{REGIONAL ENTITY}~~Texas RE, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon ~~{REGIONAL ENTITY}~~Texas RE that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without ~~{REGIONAL ENTITY}~~'sTexas RE's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the

Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and ~~{REGIONAL ENTITY}~~Texas RE fiscal year budget with the actual results at the NERC and Regional Entity levels. ~~{REGIONAL ENTITY}~~Texas RE shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) ~~{REGIONAL ENTITY}~~Texas RE shall submit unaudited quarterly interim financial statements in a form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) ~~{REGIONAL ENTITY}~~Texas RE shall submit audited financial statements annually, including supporting materials, in a form provided by NERC, by no later than the date reasonably required and designated in writing by NERC to enable NERC to assemble and file the required annual budget to actual true up filing with the Commission.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which ~~{REGIONAL ENTITY}~~Texas RE shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of ~~{REGIONAL ENTITY}~~Texas RE) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which ~~{REGIONAL ENTITY}~~Texas RE shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of ~~{REGIONAL ENTITY}~~Texas RE. *Provided*, that, subject to approval by NERC and the Commission, ~~{REGIONAL ENTITY}~~Texas RE may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. ~~{REGIONAL ENTITY}~~Texas RE may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit ~~{REGIONAL ENTITY}~~Texas

RE from contracting with other entities to assist it in carrying out its Delegated Authority, provided ~~[REGIONAL ENTITY]~~Texas RE retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the “Default Notice”). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on ~~[January 1, 2016]~~ (the “Effective Date”).

(b) The term of this Agreement shall commence on the Effective Date, and shall have ~~an~~ initial term of five years (the “Term”), ending on December 31, 2020. Thereafter, the Term shall automatically extend for one additional five-year term unless either Party shall provide written notice of termination of this Agreement to the other no later than one year prior to the then effective expiration of the Term. In such event, this Agreement shall terminate upon the expiration of then effective Term, unless otherwise mutually agreed to by the Parties.

(c) In the event of the termination of this Agreement, the Parties shall work to

provide for a transition of ~~[REGIONAL ENTITY]~~'s Texas RE's Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement.

(d) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by ~~[REGIONAL ENTITY]~~Texas RE and NERC.

(e) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. ~~[REGIONAL ENTITY]~~Texas RE and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and ~~[REGIONAL ENTITY]~~Texas RE shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of ~~[REGIONAL ENTITY]~~'s Texas RE's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that

~~[REGIONAL ENTITY]~~Texas RE or NERC is found liable for gross negligence or intentional misconduct, in which case ~~[REGIONAL ENTITY]~~Texas RE or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party, except as otherwise specifically provided herein and in Section 15(c).

15. Confidentiality.

(a) During the course of the Parties' performance under this Agreement, a Party may receive proprietary, business sensitive, or critical infrastructure information ("Confidential Information") necessary to fulfill its respective obligations in connection with this Agreement. The Parties agree that their mutual objective under this provision is to provide appropriate protection for Confidential Information, while maintaining the ability to conduct their respective business activities.

(b) No obligation of confidentiality shall apply to any information that the recipient: (i) already possesses without obligation of confidentiality; (ii) develops independently; or (iii) rightfully receives without any obligation of confidentiality from a third party.

(c) The Parties may transfer or exchange such Confidential Information with and between the other Regional Entities as third-party beneficiaries of the terms of this Agreement, provided the Parties and the other Regional Entities as third-party beneficiaries continue to maintain the confidentiality of such information.

(d) Except as set forth herein and within the NERC Rules of Procedure, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party or specified third-party beneficiary of this Agreement, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party or specified third-party beneficiary of this Agreement that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party or specified third-party beneficiary of this Agreement to (a)

seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party or specified third-party beneficiary of this Agreement waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information.

(e) Each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein.

(f) This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement, nor does it prohibit permitted disclosures as set forth in the NERC Rules of Procedure.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of ~~[REGIONAL ENTITY]~~Texas RE under this Agreement without first obtaining the consent of ~~[REGIONAL ENTITY]~~,Texas RE, which consent shall not be unreasonably withheld or delayed. To the extent ~~[REGIONAL ENTITY]~~Texas RE does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of ~~[REGIONAL ENTITY]~~Texas RE under this Agreement, ~~[REGIONAL ENTITY]~~Texas RE shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one

year following written notice by ~~[REGIONAL ENTITY]~~Texas RE to NERC and the Commission, or at such other time as may be mutually agreed by ~~[REGIONAL ENTITY]~~Texas RE and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and ~~[REGIONAL ENTITY]~~Texas RE (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to ~~[REGIONAL ENTITY]~~'sTexas RE's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. ~~[REGIONAL ENTITY]~~ Texas RE shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, provided, that the designated representatives may agree prior to the end of such twenty (20) business day period that the

process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), provided, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. Provided, however, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. All notices, demands, requests, and other communications required, permitted by, or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand, email or overnight courier:

If to NERC:

North American Electric Reliability Corporation
1325 G Street NW, Suite 600
Washington, DC 20005
Attn: General Counsel
Email: legal@nerc.net

If to ~~[REGIONAL ENTITY]~~:Texas RE:

Texas Reliability Entity, Inc.
805 Las Cimas Parkway
Suite 200
Austin, Texas 78746
Attn: General Counsel
Email: legal@texasre.org

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of Georgia without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in Georgia. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in Georgia for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. Savings Clause. Nothing in this Agreement shall be construed to preempt or limit any authority that ~~[REGIONAL ENTITY]~~Texas RE may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the

region described in **Exhibit A**.

23. Entire Agreement. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. Execution of Counterparts. This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

~~[REGIONAL ENTITY]~~TEXAS
RELIABILITY ENTITY, INC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

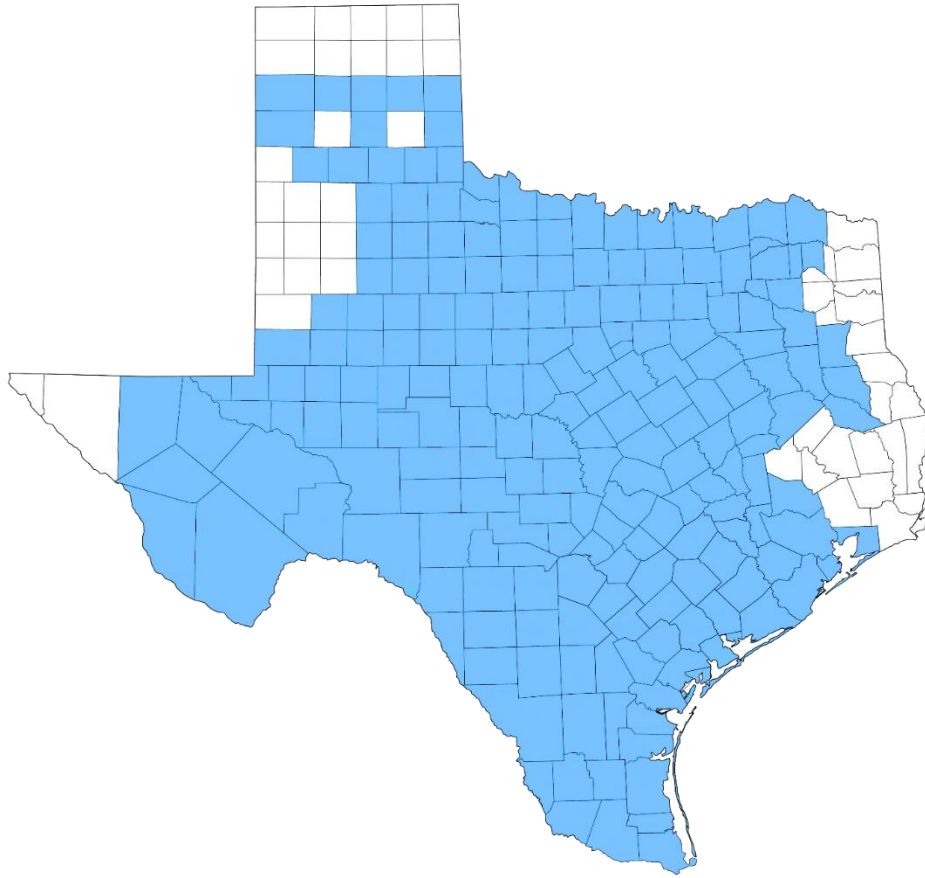
Date: _____

Date: _____

Exhibit A — Regional Boundaries

~~Exhibit A to the delegation agreement for each Regional Entity receiving Delegated Authority shall describe the geographic or electrical boundaries covered by the proposed delegation of authority. Exhibit A for each Regional Entity shall reflect coordination with neighboring Regional Entities, as appropriate, to ensure that all relevant areas are either included within the geographic boundaries of a Regional Entity or specifically identified as not being within the geographic boundaries of any Regional Entity. Any exclusions of geographic or electrical areas or of Registered Entities from the scope of the Regional Entity's Delegated Authority within the geographic or electrical boundaries shown in Exhibit A, and any additions of geographic or electrical areas or of Registered Entities located outside the boundaries shown in Exhibit A to the scope of the Regional Entity's Delegated Authority, shall be specifically stated or described in Exhibit A.~~

The Electric Reliability Council of Texas (ERCOT) region is the geographic area and associated transmission and distribution facilities that are not synchronously interconnected with electric utilities operating outside the jurisdiction of the Public Utility Commission of Texas (PUCT). The ERCOT region does not interconnect synchronously across state lines to import or export power with neighboring reliability regions. The ERCOT geographic region includes 200,000 square miles, 90% of Texas load, and 75% of Texas land area but does not include the Panhandle (with the exception of certain Competitive Energy Renewable Zone transmission lines), El Paso area, and two areas of East Texas. The ERCOT region includes the following Texas cities and towns: Dallas, Ft. Worth, Houston, San Antonio, Austin, Paris, Tyler, Nacogdoches, Lufkin, Bryan, College Station, Corpus Christi, Harlingen, Brownsville, Laredo, Brownwood, San Angelo, Abilene, Midland, Odessa, Fort Stockton, Monahans, Snyder, Vernon, Wichita Falls, Denton, Garland, Greenville, Waco, Temple, Killeen, Weatherford, and Graham, as indicated on the map below.



*Map shows approximate geographic areas for general information only and does not indicate areas where service providers overlap.

Exhibit B — Governance

The Regional Entity bylaws shall meet the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence from the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

Exhibit C [Intentionally left blank]

Exhibit D — Compliance Monitoring and Enforcement Program

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

~~{REGIONAL ENTITY}~~Texas RE will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within ~~{REGIONAL ENTITY}'s~~Texas RE's geographic or electrical boundaries, and such other scope, set forth in **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

~~{REGIONAL ENTITY}~~Texas RE, to the extent required in the Rules of Procedure, shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be either ~~{REGIONAL ENTITY}'s~~Texas RE's board, a committee of the board, a balanced compliance panel reporting directly to ~~{REGIONAL ENTITY}'s~~Texas RE's board or an independent hearing panel. ~~{REGIONAL ENTITY}'s~~Texas RE's hearing body is a committee of the board comprised of a portion of the Texas RE Directors, with a majority of independent directors. ~~{its board} [if not the board, insert the name of the committee or group serving as the hearing body].~~

~~[If the hearing body is a compliance panel other than the board, provide here a description of how the members of the compliance panel are selected and the qualifications to be selected for the compliance panel.]~~

To the extent required in the Rules of Procedure, ~~{REGIONAL ENTITY}~~Texas RE shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, ~~if any:~~ ~~[Describe any deviations, or state "None." If there are deviations from the NERC pro forma Hearing Procedures, {REGIONAL ENTITY}'s Hearing Procedures shall be included as a separate attachment to this Exhibit D.]~~ as set forth in the Texas RE Hearing Body Charter:

(a) The Hearing Body will attend the evidentiary hearing so that the members can hear and weigh the evidence presented and assess the credibility of the witnesses.

(b) Following post-hearing briefing, the Hearing Body will convene to deliberate and make an initial determination of the disputed issues based on the evidence admitted during the proceedings. The Hearing Body will issue an Initial Opinion reflecting the decisions of the Hearing Body in accordance with the Hearing Procedures.

3.0 OTHER DECISION-MAKING BODIES

~~None If {REGIONAL ENTITY} uses other decision-making bodies within its compliance~~

~~program, provide here a description of the function of that body to the extent not described elsewhere in the Agreement or exhibits, how the members of that body are selected, and the qualifications to be selected for that body.]~~

Exhibit E — Funding

1. Scope of Activities Funded through the ERO Funding Mechanism

~~{Regional Entity}~~ Texas RE shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
- Event Analysis and Reliability Improvement
- Training and Education
- Situation Awareness
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and ~~{Regional Entity}~~ Texas RE, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of ~~{Regional Entity}'s~~ Texas RE's business plan and budget. The annual schedule for the preparation of business plans and budgets shall require ~~{Regional Entity}~~ Texas RE (i) to submit to NERC draft(s) of ~~{Regional Entity}'s~~ Texas RE's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by ~~{Regional Entity}~~ Texas RE Board of ~~Trustees~~ Directors to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of ~~{Regional Entity}'s~~ Texas RE's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The ~~{Regional Entity}~~ Texas RE business plan and budget submission shall include supporting materials, including ~~{Regional Entity}'s~~ Texas RE's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. ~~{Regional Entity}'s~~ Texas RE's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve ~~{Regional Entity}'s~~ Texas RE's proposed business plan and budget and proposed assessments for performing the delegated functions and

related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct ~~[Regional Entity]~~Texas RE to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~[Regional Entity]'s~~Texas RE's approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of ~~[REGIONAL ENTITY]'s~~Texas RE's delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. ~~[Regional Entity]~~Texas RE shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying ~~[Regional Entity's]~~Texas RE's assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of ~~[Regional Entity's]~~Texas RE's assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used. NERC and Texas RE agree that for purposes of Sections 3 and 4 of this Exhibit E, Electric Reliability Council of Texas (ERCOT ISO), as the sole independent system operator and Balancing Authority, is the only load-serving entity or designee in Texas RE's region and shall be invoiced for the entire NERC and Texas RE assessments approved for collection.

4. Collection of Funding

~~[IF NERC WILL BILL AND COLLECT ASSESSMENTS DIRECTLY FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):]~~

(a) NERC shall submit invoices to the load-serving entities or designees identified by ~~[Regional Entity]~~Texas RE covering the NERC and ~~[Regional Entity]~~Texas RE assessments approved for collection.

~~[IF THE REGIONAL ENTITY WILL ACT AS THE BILLING AND COLLECTION AGENT ON BEHALF OF NERC TO BILL AND COLLECT ASSESSMENTS FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):]~~

(a) ~~NERC and [Regional Entity] agree that [Regional Entity] shall act as the billing and collection agent on behalf of NERC to bill and collect [Regional Entity]'s assessments from load-serving entities and designees (or such other entities as agreed by NERC and [Regional Entity]). [Regional Entity] agrees that it shall (i) issue all invoices to load-serving entities and other entities in a prompt and timely manner after receipt from NERC~~

~~of the information needed to issue the invoices; (ii) exercise commercially reasonable efforts to collect invoices that are not paid as of the due date(s); and (iii) transfer all funds collected to NERC in a timely manner, as follows: Prior to the start of each calendar quarter, and once per week thereafter until all billings for the quarter are collected, [Regional Entity] will electronically transfer to NERC, in immediately available funds, all payments received by [Regional Entity] from load-serving entities or other entities for payment of invoices. On the same day that [Regional Entity] makes each electronic transfer of funds to NERC, [Regional Entity] shall send an email to the Chief Financial Officer or Controller of NERC detailing the collections being transmitted, including a listing of the load-serving entities or other entities from which payments were collected and the amount collected from each entity. [Note: If NERC and Regional Entity have a different collection and payment arrangement, the preceding two sentences will be modified accordingly to describe it.]~~

~~[Regional Entity] agrees that it shall not in any way use its position as billing and collection agent for NERC to attempt to influence NERC's policies or decisions on matters relating to adoption of Reliability Standards (including Regional Reliability Standards and Regional Variances), administration of the compliance monitoring and enforcement program and other compliance and enforcement matters, determination and imposition of penalties and sanctions, budgeting matters including review and approval of [Regional Entity's] budgets and business plans, or any other NERC decisions, including by issuing invoices, engaging in collection activities or transferring funds collected to NERC in an untimely manner or other than in accordance with this Agreement.~~

(b) NERC shall pursue any non-payments of assessment amounts and shall request assistance from Applicable Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, ~~[Regional Entity]~~Texas RE shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, ~~[Regional Entity]~~Texas RE is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts. NERC shall add the amount of any non-payments by end-users or designees within ~~[REGIONAL ENTITY]'s~~Texas RE's region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within ~~[Regional Entity]'s~~Texas RE's region.

(c) Upon approval by Applicable Governmental Authorities of ~~[Regional Entity]'s~~Texas RE's annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay ~~[Regional Entity's]~~Texas RE's annual assessment to Regional Entity in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by ~~[Regional Entity]~~Texas RE, other than penalty monies received from an operational function or division or affiliated entity of ~~[Regional Entity]~~Texas RE, shall be applied as a general

offset to ~~[Regional Entity]’s~~Texas RE’s budget requirements for U.S.-related activities under this Agreement for the subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of ~~[Regional Entity]~~Texas RE shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC’s budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for ~~[Regional Entity]’s~~Texas RE’s Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as “statutory activities”), ~~[Regional Entity]~~Texas RE performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as “non-statutory activities”): ~~[List and describe all non-statutory activities performed by Regional Entity, or state “None.”]~~

[Regional Entity]Texas RE performs non-statutory activities as the ERCOT region Reliability Monitor on behalf of the Public Utility Commission of Texas (“PUCT”). As the Reliability Monitor, Texas RE audits and investigates market participants’ compliance with ERCOT Protocols and Operating Guides (ERCOT regional rules), reports possible non-compliance with reliability-related regional rules to the PUCT, and provides testimony and support to the PUCT in enforcement cases prosecuted by the PUCT. These non-statutory activities are funded through the ERCOT ISO system administration fee and payment to Texas RE is authorized by the PUCT. Texas RE shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions: [List and describe the methods and procedures Regional Entity employs to keep costs and funding of statutory activities separate from costs and funding of non-statutory activities, including at a minimum a description of how Regional Entity’s bank accounts and receivables/payables procedures are set up for both statutory and non-statutory functions, a description of how Regional Entity ensures each employee involved in both statutory and non-statutory functions keeps accurate time records reflecting his/her activities, and a description of how Regional Entity’s general and administrative costs are allocated between statutory activities and non-statutory activities. If the necessary descriptions are lengthy they may be provided in a separate attachment labeled “Attachment E-1”, and state here “See Attachment E-1.” If Regional Entity has listed no non-statutory functions in the preceding paragraph, state here “Not applicable.”]

- A. Texas RE segregates the funding for its statutory activities and non-statutory activities by recording the funding transactions in separate and distinct general ledger accounts, in accordance with Generally Accepted Accounting Principles.
- B. Texas RE utilizes and must maintain a time recording and expense management system under which employee time and expenses incurred in the conduct of non-

statutory activities will be tracked to ensure that they are not funded by NERC remittances intended for the funding of statutory activities.

- C. Texas RE has adopted a detailed system of Account Codes, Department Codes and Activity Codes which are used in recording expenses. The Activity Codes are specific to statutory activities and non-statutory activities. The Texas RE Activity Codes are modeled on the NERC Functional Categories. Texas RE shall use Department Codes that are unique to Texas RE to record all costs and expenses incurred by Texas RE for statutory activities and non-statutory activities.
- D. Texas RE shall use Activity Codes to appropriately track its costs for statutory activities separately from its costs for non-statutory activities.
- E. Where employee time or an expense affects multiple activities, Texas RE will use an accurate basis of allocation of the time or expense between the activities being performed based on specific metrics, such as time tracking, data observations or total cost input. Total cost input relates the portion of the expense to the total expense to establish an appropriate method to allocate.

~~{Regional Entity}~~Texas RE shall provide its budget for such non-statutory activities to NERC at the same time that ~~{Regional Entity}~~Texas RE submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. ~~{Regional Entity's}~~ Texas RE's budget for non-statutory activities that is provided to NERC shall contain a detailed list of ~~{Regional Entity's}~~Texas RE's non-statutory activities and a description of the funding sources for the non-statutory activities. ~~{Regional Entity}~~Texas RE agrees that no costs (which shall include a reasonable allocation of ~~{Regional Entity}~~'s Texas RE's general and administrative costs) of non-statutory activities are to be included in the calculation of ~~{Regional Entity's}~~Texas RE's assessments, dues, fees, and other charges for its statutory activities.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if ~~{Regional Entity}~~Texas RE determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, ~~{Regional Entity}~~Texas RE shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in ~~{Regional Entity}~~'s Texas RE's approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct ~~{Regional Entity}~~Texas RE to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~{Regional Entity}~~'s Texas RE's approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Records

Upon a request made to ~~{Regional Entity}~~Texas RE with reasonable notice, NERC shall have access to and may review all financial records of ~~{Regional Entity}~~, Texas RE,

including records used to prepare ~~[Regional Entity's]~~Texas RE's financial statements. NERC shall conduct reviews of the quarterly and annual financial statements submitted by ~~[Regional Entity]~~Texas RE pursuant to Section 9(h) and (i) of the Agreement. ~~[Regional Entity]~~Texas RE shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC.

**Attachment 10A: CLEAN – Revised Regional Delegation Agreement with
Western Electricity Coordinating Council**

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
AND WESTERN ELECTRICITY COORDINATING COUNCIL**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”)

Effective as of January 1, 2016, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and the Western Electricity Coordinating Council (“WECC”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified in **Exhibit A** to this Agreement, and for other purposes. NERC and WECC may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824o) (hereafter “the Act”), which, among other things, provides for the establishment of an Electric Reliability Organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the

delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as WECC, provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, WECC is organized on an Interconnection-wide basis and therefore is entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through WECC to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that WECC meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and WECC, having operated under a predecessor agreement to

this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and WECC agree as follows:

1. Definitions. The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) Breach means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) Cross-Border Regional Entity means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) Delegated Authority means the authority delegated by NERC to WECC to propose and enforce Reliability Standards, consistent with Section 4(d) and the boundaries identified in **Exhibit A** pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. Representations.

(a) For purposes of its Delegated Authority, WECC hereby represents and warrants to NERC that:

(i) WECC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder. WECC is governed in accordance with its bylaws by an

independent Board. Pursuant to these bylaws, no two industry sectors can control any WECC decision and no single industry sector can veto any WECC decision. The relevant criteria for the establishment of such bylaws are attached hereto in **Exhibit B**. No other WECC corporate governance documents shall be inconsistent with the criteria in **Exhibit B**.

(ii) WECC has developed a standards development procedure, which provides the process that WECC may use to develop Regional Reliability Standards and Regional Variances that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, WECC has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within WECC's geographic boundaries as shown in **Exhibit A**.

(b) NERC hereby represents and warrants to WECC that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

(iii) NERC shall comply with its Certificate of Incorporation, Bylaws and Rules of Procedure, as from time to time adopted, approved or amended.

3. General Covenants.

(a) During the term of this Agreement, WECC shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC approval, which shall not be unreasonably withheld or delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) WECC shall provide NERC with a copy of its Regional Entity Rules upon request by NERC.

(c) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of WECC under this Agreement without first obtaining the consent of WECC, which consent shall not be unreasonably withheld or delayed.

(d) During the term of this Agreement, NERC and WECC shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

(e) For purposes of this Agreement, NERC shall collaborate with the Regional Entities in the development of guidance, policies and procedures, and oversight parameters as contemplated by this Agreement. In the event that collaboration is not successful on any such matter, the NERC President may issue a directive with respect to such matter pursuant to Section 8 herein, and such directive shall be binding upon WECC.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of WECC in this Agreement, WECC's corporate governance documents, WECC's standards development process, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to WECC for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth in **Exhibit A**, provided, that WECC shall not monitor and enforce compliance with Reliability Standards for WECC or an affiliated entity with respect to reliability functions for which WECC or an affiliate is a Registered Entity. For avoidance of doubt, Peak Reliability (or its successor) is not an affiliated entity of WECC for purposes of this Section 4(a). Any exclusions from this delegation of authority to WECC within, or additions to this delegation of authority to WECC beyond, the geographic boundaries set forth in **Exhibit A** are stated in **Exhibit A**.

(b) In circumstances where WECC or an affiliated entity is a Registered Entity, WECC shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce WECC's or affiliate's compliance with

Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit WECC from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified in **Exhibit A** that is within the United States. Any delegation of authority by Applicable Governmental Authorities in Canada or Mexico shall be governed by the law of such authority or a separate agreement and is outside the scope of this Agreement; provided, however, that both WECC and NERC shall endeavor to ensure that this Agreement and any such separate agreement are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, WECC shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, WECC shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords WECC reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards and Regional Variances through WECC's process. WECC's process shall be consistent with the NERC Rules of Procedure and Commission directives. Any changes to WECC's process shall be submitted to the NERC Board of Trustees for approval and upon approval, be submitted to the Commission for approval. Proposals approved through WECC's process shall be reviewed by the NERC Board of Trustees after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis,

comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board of Trustees shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. WECC may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, WECC shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the boundaries set forth in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and WECC agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, inter alia, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. WECC may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17

and 18 of this Agreement, WECC agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board of Trustees or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) WECC shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual ERO Compliance Monitoring and Enforcement Program Implementation Plan.

(c) WECC shall report promptly to NERC information regarding noncompliance with a Reliability Standard, and its eventual disposition by WECC, as set forth in, and subject to the confidentiality and disclosure provisions of, the NERC Rules of Procedure, the NERC Compliance Monitoring and Enforcement Program, this Agreement, compliance and enforcement program procedures and guidance that NERC may from time to time develop and the ERO Regulations. NERC shall promptly forward such report to the Commission, as required by the ERO Regulations, or as the Commission shall from time to time direct. NERC and WECC shall cooperate in filing such periodic summary reports and analyses as the Commission shall from time to time direct.

(d) All dispositions by WECC of noncompliance with Reliability Standards shall be reported to NERC for review. NERC shall develop and implement policies and procedures for the review and, where appropriate, approval of dispositions of noncompliance.

(e) As part of its compliance monitoring and enforcement program, WECC shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. WECC may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

7. Delegation-Related Activities.

NERC will engage WECC on its behalf to carry out certain of its activities that are in

furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed in **Exhibit E**. NERC may from time to time develop policies or procedures, which shall be used by WECC in the performance of the delegation-related activities. These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (g), each of which shall be considered a statutory activity:

(a) **Certification of Bulk-Power System Entities.** The NERC Board of Trustees shall set criteria for certification in accordance with the NERC Rules of Procedure. Certifications shall be issued in accordance with the NERC Rules of Procedure.

(b) **Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.**

(i) The NERC Board of Trustees shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by WECC and other Regional Entities. WECC shall provide timely and accurate information relating to registrations to NERC, as needed, to enable NERC to maintain a registration database that is accurate and up-to-date and to enable NERC to satisfy its monthly reporting obligation.

(iii) The NERC Board of Trustees Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board of Trustees Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) **Reliability Assessment and Performance Analysis.** WECC shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability

assessments, in accordance with the NERC Rules of Procedure. WECC shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of Procedure and NERC directives, and policies and procedures related to data-gathering, quality control, forms, and reporting mechanisms that NERC may from time to time develop.

(d) **Event Analysis and Reliability Improvement.** WECC shall conduct event analysis pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop. NERC and WECC shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, WECC shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) **Training and Education.** WECC may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) **Situation Awareness.** WECC shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System.

(g) **Critical Infrastructure Security.** WECC shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of WECC's performance of its Delegated Authority and related activities

pursuant to this Agreement. It is the intent of NERC and WECC that matters relating to NERC's oversight of WECC's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and WECC and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with WECC and other Regional Entities, performance goals, performance reports, measures and other parameters (including, without limiting the scope of such goals, financial performance goals), which shall be used to measure NERC's and WECC's performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. WECC shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate WECC's performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters, and performance reports to evaluate WECC's performance of its delegated functions and related activities and to provide advice and direction to WECC on performance improvements. The performance goals, measures and other parameters, and the values of such goals, measures and parameters, shall be reviewed by NERC, WECC and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, WECC shall be required to develop, submit for NERC approval, and implement action plans to address, areas of its performance that are reasonably determined by NERC, based on analysis of WECC's performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring WECC to adopt and implement an action plan or other remedial action, NERC shall issue a notice to WECC of the need and basis for an action plan or other remedial action and provide an opportunity for WECC to submit a written response contesting NERC's evaluation of WECC's performance and the

need for an action plan. WECC may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board of Trustees review and reconsider the request. NERC and WECC shall work collaboratively as needed in the development and implementation of WECC's action plan. A final action plan submitted by WECC to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to WECC standardized training and education programs, which shall be designed taking into account input from WECC and other Regional Entities, for WECC personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to WECC concerning the manner in which WECC shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered "directives." NERC shall initiate the development of a directive through a collaborative process with WECC and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and WECC and, if applicable, other Regional Entities, are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, WECC, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon request by WECC, the NERC Board of Trustees (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without WECC's agreement, *provided*, that WECC shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and WECC and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or

paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that it is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board of Trustees (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which WECC, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The NERC Board of Trustees or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the NERC Board of Trustees or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. WECC, either individually or in conjunction with other Regional Entities, may request that the NERC Board of Trustees or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with WECC, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the implementation of the delegated functions.

(f) NERC may perform reviews of WECC on a reasonable periodicity to determine the WECC's compliance with this Agreement, any policies or procedures established by NERC, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c) and to monitor the implementation of guidance and directions issued by the NERC Board of Trustees pursuant to Section 8(d). All such periodic reviews shall comply with the NERC Rules of Procedure and Commission directives.

(g) The Commission and the Commission staff shall have full access to action plans

and remedial actions, directives, and directions and guidance issued pursuant to subsections (a)(iii), (c)(iv) and (d), respectively, that are maintained as non-public.

9. Funding. WECC and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) WECC shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. WECC's proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, WECC to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E**. WECC's business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) WECC and NERC agree that the portion of WECC's approved budget for the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered through a formula based on Net Energy for Load, or through such other formula as is proposed by WECC and approved by NERC and the Commission. If WECC proposes to use a formula other than Net Energy for Load beginning in the following year, WECC shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and WECC to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those

Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide WECC with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) WECC shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E**, as well as for all other activities of WECC, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund WECC's performance of its Delegated Authority and related activities in accordance with WECC's Commission- approved business plan and budget, in the amount of WECC's assessments to end users approved by the Commission. **Exhibit E** sets forth the procedures and timing for billing and collecting WECC's approved assessments from end users and other entities and payment of the approved assessment amount to WECC, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon WECC that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without WECC's consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and WECC fiscal year budget with the actual results at the NERC and Regional Entity levels. WECC shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) WECC shall submit unaudited quarterly interim financial statements in form

provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) WECC shall submit audited financial statements annually, including supporting materials, in a form provided by NERC, by no later than the date reasonably required and designated in writing by NERC to enable NERC to assemble and file the required annual budget to actual true up filing with the Commission.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which WECC shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of WECC) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which WECC shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of WECC. *Provided*, that, subject to approval by NERC and the Commission, WECC may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. WECC may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit WECC from contracting with other entities to assist it in carrying out its Delegated Authority, provided WECC retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and

diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on January 1, 2016 (the “Effective Date”).

(b) The term of this Agreement shall commence on the Effective Date, and shall have an initial term of five years (the “Term”), ending on December 31, 2020. Thereafter, the Term shall automatically extend for one additional five-year term unless either Party shall provide written notice of termination of this Agreement to the other no later than one year prior to the then effective expiration of the Term. In such event, this Agreement shall terminate upon the expiration of then effective Term, unless otherwise mutually agreed to by the Parties.

(c) In the event of the termination of this Agreement, the Parties shall work to provide for a transition of WECC’s Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement.

(d) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable

resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by WECC and NERC.

(e) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. WECC and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and WECC shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of WECC's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that WECC or NERC is found liable for gross negligence or intentional misconduct, in which case WECC or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party, except as otherwise specifically provided herein and in Section 15(c).

15. Confidentiality.

(a) During the course of the Parties' performance under this Agreement, a Party may receive proprietary, business sensitive, or critical infrastructure information ("Confidential Information") necessary to fulfill its respective obligations in connection with this Agreement. The Parties agree that their mutual objective under this provision is to provide appropriate

protection for Confidential Information, while maintaining the ability to conduct their respective business activities.

(b) No obligation of confidentiality shall apply to any information that the recipient: (i) already possesses without obligation of confidentiality; (ii) develops independently; or (iii) rightfully receives without any obligation of confidentiality from a third party.

(c) The Parties may transfer or exchange such Confidential Information with and between the other Regional Entities as third-party beneficiaries of the terms of this Agreement, provided the Parties and the other Regional Entities as third-party beneficiaries continue to maintain the confidentiality of such information.

(d) Except as set forth herein and within the NERC Rules of Procedure, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party or specified third-party beneficiary of this Agreement, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party or specified third-party beneficiary of this Agreement that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party or specified third-party beneficiary of this Agreement to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party or specified third-party beneficiary of this Agreement waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information.

(e) Each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein.

(f) This confidentiality provision does not prohibit reporting and disclosure as

directed by NERC, as set forth in Section 6 of this Agreement, nor does it prohibit permitted disclosures as set forth in the NERC Rules of Procedure.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of WECC under this Agreement without first obtaining the consent of WECC, which consent shall not be unreasonably withheld or delayed. To the extent WECC does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of WECC under this Agreement, WECC shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by WECC to NERC and the Commission, or at such other time as may be mutually agreed by WECC and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and WECC (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to WECC's performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. WECC shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating

that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, provided, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), provided, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a

court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. Provided, however, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. All notices, demands, requests, and other communications required, permitted by, or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand, email or overnight courier:

If to NERC:

North American Electric Reliability
Corporation
1325 G Street NW, Suite 600
Washington, DC 20005
Attn: General Counsel
Email: legal@nerc.net

If to WECC:

Western Electricity Coordinating Council
155 North 400 West,
Suite 200
Salt Lake City, Utah 84103
Attn: General Counsel
Email: sgoodwill@wecc.biz

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of Georgia without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in Georgia. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in Georgia for the purpose of hearing and determining any action not heard and determined by the Commission.

21. **Headings.** The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. **Savings Clause.** Nothing in this Agreement shall be construed to preempt or limit any authority that WECC may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. **Entire Agreement.** This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. **Execution of Counterparts.** This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

WESTERN ELECTRICITY
COORDINATING COUNCIL

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A — Regional Boundaries

WECC's physical boundaries coincide with the boundaries of the Western Interconnection. The Western Interconnection consists of the synchronously operated electric transmission grid in the western part of North America, which includes parts of Montana, Nebraska, New Mexico, South Dakota, Texas, Wyoming, and Mexico and all of Arizona, California, Colorado, Idaho, Nevada, Oregon, Utah, Washington and the Canadian Provinces of British Columbia and Alberta. The WECC region encompasses approximately 1.8 million square miles.

WECC's northern border runs along the northern border of British Columbia and Alberta. The western border extends along the western coast of North America from British Columbia into northern Baja California, Mexico. The southern border traverses northern Baja and extends along the southern United States border to Texas. The eastern border bisects North America from Alberta, Canada through the states of Montana, South Dakota, Wyoming, Nebraska, Texas and New Mexico to the southern United States border.

Exhibit B — Governance

The Regional Entity bylaws shall meet the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence from the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

Exhibit C [Intentionally left blank]

Exhibit D — Compliance Monitoring and Enforcement Program

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

WECC will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within **WECC's** geographic or electrical boundaries, and such other scope, set forth in **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

WECC, to the extent required in the Rules of Procedure, shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be either **WECC's** board, a committee of the board, a balanced compliance panel reporting directly to **WECC's** board or an independent hearing panel. **WECC's** hearing body is the Compliance Hearing Body, a committee of the WECC Board comprised solely of directors, as set forth in the WECC Compliance Hearing Body Charter.

Consistent with the WECC Compliance Hearing Body Charter, hearing panels for individual matters will include directors and may include industry subject matter experts. No industry representative or member class shall control the outcome.

To the extent required in the Rules of Procedure, **WECC** shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: None.

3.0 OTHER DECISION-MAKING BODIES

None.

Exhibit E — Funding

1. Scope of Activities Funded through the ERO Funding Mechanism

WECC shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement
This category includes activities under the WECC Reliability Management System
- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)
This category includes the WECC Transmission Expansion Planning Program, Loads and Resources Activities, and all necessary supporting activities
- Event Analysis and Reliability Improvement
- Training and Education
This category includes WECC's Training Programs
- Situation Awareness
As agreed to by NERC and WECC on an annual basis, this category includes WECC's Reliability Coordinator Functions, Western Interconnection Synchrophasor Program, WECC Interchange Tool, and all necessary supporting activities. If sub-delegated by WECC, the costs for the Reliability Coordinator Functions, Western Interconnection Synchrophasor Program, WECC Interchange Tool and necessary supporting activities shall not be included in WECC's annual budget submission to NERC but rather shall be included in the budget of Peak Reliability.
- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and WECC, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of WECC's business plan and budget. The annual schedule for the preparation of business plans and budgets shall require WECC (i) to submit to NERC draft(s) of WECC's proposed business plan and budget and other preliminary documents and information, and (ii) to submit a final proposed business plan and budget that has been approved by the

WECC Board of Directors to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of WECC's business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The WECC business plan and budget submission shall include supporting materials, including WECC's complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. WECC's business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve WECC's proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct WECC to make such revisions as NERC deems appropriate prior to approval. NERC shall submit WECC's approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of WECC's delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. WECC shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying WECC's assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of WECC's assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

Entities on the list of LSEs or Balancing Authorities will be responsible for collection and/or payment of charges through the mechanism described in either Option 1 or 2 below. Each Balancing Authority will inform WECC by June 1st of each year of its choice of Option 1 or 2, and will give WECC at least 90 days' notice of its intention to change from one option to the other.

- a. **OPTION 1** -- The Balancing Authority will provide WECC a list of all LSEs located within its area, including each LSE's name, contact information, and Net Energy for Load. This information will be updated annually and provided to WECC no later than June 1st of each year. WECC will use this list to bill each LSE for all costs on an annual basis.
- b. **OPTION 2** -- WECC will bill the Balancing Authority for all costs on an annual

basis. The Balancing Authority will be responsible for equitably allocating WECC costs among the LSEs in its area (if applicable) on the basis of Net Energy for Load, collecting the funds, and ensuring that WECC receives full payment on an annual basis.

4. Collection of Funding

(a) NERC and WECC agree that WECC shall act as the billing and collection agent on behalf of NERC to bill and collect the NERC, WECC, and WIRAB assessments from load-serving entities and designees (or such other entities as agreed by NERC and WECC). WECC agrees that it shall (i) issue all invoices to each load-serving entity or Balancing Authority (depending on the Balancing Authority's choice of Option 1 or 2 above) in a prompt and timely manner after receipt from NERC of the information needed to issue the invoices, but no later than November 15th of each year; (ii) exercise commercially reasonable efforts to collect invoices that are not paid as of the due date(s); and (iii) transfer all funds collected to NERC in a timely manner, as follows: Once per week until all billings are collected, WECC will electronically transfer to NERC, in immediately available funds, all payments received by WECC from load-serving entities or other entities for payment of the NERC, WECC, and WIRAB assessments billed on the annual invoices. In the event that (1) WECC includes Peak Reliability assessments (or assessments of a differently named company performing the same functions) on the annual invoices; (2) a payment received is less than the total amount billed for the NERC, WECC, WIRAB, and Peak Reliability assessments; and (3) WECC does not know and, after due inquiry with the entity submitting the underpayment and consultation with NERC, is unable to determine which invoiced item accounts for the shortfall, WECC shall be permitted to prorate the shortfall among all assessments received from that entity. On the same day that WECC makes each electronic transfer of funds to NERC, WECC shall send an e-mail to the Chief Financial Officer or Controller of NERC detailing the collections being transmitted, including a listing of the load-serving entities or other entities from which payments were collected and the amount collected from each entity and the breakdown of the total payments collected among NERC statutory funding, WECC statutory funding, and WIRAB statutory funding.

WECC agrees that it shall not in any way use its position as billing and collection agent for NERC to attempt to influence NERC's policies or decisions on matters relating to adoption of Reliability Standards (including Regional Reliability Standards and Regional Variances), administration of the compliance monitoring and enforcement program and other compliance and enforcement matters, determination and imposition of penalties and sanctions, budgeting matters including review and approval of WECC's budgets and business plans, or any other NERC decisions, including by issuing invoices, engaging in collection activities or transferring funds collected to NERC in an untimely manner or other than in accordance with this Agreement. To the extent WECC uses another entity as collection agent, it will incorporate these safeguards in the arrangements with the collection agent.

Within three (3) business days following receipt of an electronic transfer of collected assessments from WECC in accordance with Section 4(a) of this **Exhibit E**, NERC will electronically transfer (i) to WECC, in immediately available funds, the portion of the

payment received from WECC constituting WECC statutory funding, and (ii) to WIRAB, in immediately available funds, the portion of the payment received from WECC constituting WIRAB statutory funding.

(b) NERC shall pursue any non-payments of assessment amounts constituting NERC, WECC, and WIRAB statutory funding and shall request assistance from Applicable Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, WECC shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, WECC is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts constituting NERC, WECC, and WIRAB statutory funding. NERC shall add the amount of any non-payments by end-users or designees within WECC's region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within WECC's region.

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by WECC, other than penalty monies received from an operational function or division or affiliated entity of WECC, shall be applied as a general offset to WECC's budget requirements for U.S.-related activities under this Agreement for a subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of WECC shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for WECC's Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), WECC performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"): Western Renewable Generation Information System ("WREGIS").

WECC shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions: WECC utilizes a fund accounting system with capabilities to segregate receipts and expenses based on function or activity. WECC has segregated non-statutory activities by assigning a separate fund code to those receipts and expenses. All expenditures or receipts that are entered into WECC's accounting system must include a fund code identifying whether the transaction is related to statutory or non-statutory activities.

General and administrative costs are allocated to non-statutory activities based on an FTE ratio that is consistent with NERC's accounting methodology for allocation of overhead to statutory activities. For these reasons, time records are not necessary for WECC to properly allocate costs between statutory and non-statutory activities.

WECC shall provide its budget for such non-statutory activities to NERC at the same time that WECC submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. WECC's budget for non-statutory activities that is provided to NERC shall contain a detailed list of WECC's non-statutory activities and a description of the funding sources for the non-statutory activities. WECC agrees that no costs (which shall include a reasonable allocation of WECC's general and administrative costs) of non-statutory activities are to be included in the calculation of WECC's assessments, dues, fees, and other charges for its statutory activities.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if WECC determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, WECC shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in WECC's approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct WECC to make such revisions as NERC deems appropriate prior to approval. NERC shall submit WECC's approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Records

Upon a request made to WECC with reasonable notice, NERC shall have access to and may review all financial records of WECC, including records used to prepare WECC's financial statements. NERC shall conduct reviews of the quarterly and annual financial statements submitted by WECC pursuant to Section 9(h) and (i) of the Agreement. WECC shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC.

**Attachment 10B: REDLINE – Revised Regional Delegation Agreement with
Western Electricity Coordinating Council**

REDLINE TO PRO FORMA RDA

**AMENDED AND RESTATED DELEGATION AGREEMENT BETWEEN
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
~~AND [REGIONAL ENTITY]~~
AND WESTERN ELECTRICITY COORDINATING COUNCIL**

AMENDED AND RESTATED DELEGATION AGREEMENT (“Agreement”)

Effective as of January 1, 2016, between the North American Electric Reliability Corporation (“NERC”), an organization certified by the Federal Energy Regulatory Commission (“Commission”) pursuant to Section 215(c) of the Federal Power Act to establish and enforce Reliability Standards for the Bulk-Power System, and ~~[REGIONAL ENTITY]~~, the Western Electricity Coordinating Council (“WECC”), an organization established to develop and enforce Reliability Standards within the geographic boundaries identified in **Exhibit A** to this Agreement, and for other purposes. NERC and ~~[REGIONAL ENTITY]~~WECC may be individually referred to herein as “Party” or collectively as “Parties.”

WITNESSETH

WHEREAS, Subtitle A of the Electricity Modernization Act of 2005 added Section 215 to the Federal Power Act (16 U.S.C. § 824o) (hereafter “the Act”), which, among other things, provides for the establishment of an Electric Reliability Organization (“ERO”) to develop and enforce Reliability Standards applicable to all owners, operators, and users of the Bulk-Power System;

WHEREAS, the Commission has adopted regulations for the implementation of the Act, which are set forth at Chapter I, Title 18, Code of Federal Regulations, Part 39 (the “ERO Regulations”);

WHEREAS, the Commission has certified NERC as the ERO that will, in accordance with the Act, establish and enforce Reliability Standards for the Bulk-Power System, subject to certain delegation provisions described below;

WHEREAS, the Act recognizes the international interdependency of electric reliability within North America and envisions the ERO and such applicable Regional Entities as international organizations;

WHEREAS, the Act and Section 39.8 of the ERO Regulations provide for the

delegation by the ERO of authority to propose and enforce Reliability Standards to regional entities (“Regional Entities”) such as ~~[REGIONAL ENTITY]~~, WECC, provided that:

(A) The Regional Entity is governed by —

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) The Regional Entity otherwise satisfies the provisions of Section 215(c)(1) and (2) of the Act; and

(C) The agreement promotes effective and efficient administration of Bulk-Power System reliability;

WHEREAS, certain Regional Entities are organized on an Interconnection-wide basis and are therefore entitled to the presumption set forth in the Act that: “[t]he ERO and the Commission shall rebuttably presume that a proposal for delegation to a Regional Entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved”;

WHEREAS, the Act further provides that the ERO shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Reliability Standard or modification to a Reliability Standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest;

WHEREAS, ~~[REGIONAL ENTITY]~~ WECC is/~~is not~~ organized on an Interconnection-wide basis and therefore ~~is~~/~~is not~~ entitled to the rebuttable presumptions accorded such an entity;

WHEREAS, NERC will work through ~~[REGIONAL ENTITY]~~ WECC to carry out certain of its activities in furtherance of its responsibilities as the ERO under the Act;

WHEREAS, NERC has concluded that ~~[REGIONAL ENTITY]~~ WECC meets all requirements of the Act, the ERO Regulations, and the NERC Rules of Procedure as approved by the Commission (“NERC Rules of Procedure”) necessary to qualify for delegation; and

WHEREAS, NERC and ~~[REGIONAL ENTITY]~~WECC, having operated under a predecessor agreement to this Agreement, have negotiated this amended and restated Agreement so as to incorporate the benefits of their mutual experience and lessons learned while operating under the predecessor agreement and thereby provide for the more efficient and effective execution of their respective responsibilities in a transparent manner that is pursuant to Section 215 of the Act and the ERO Regulations;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NERC and ~~[REGIONAL ENTITY]~~WECC agree as follows:

1. **Definitions.** The capitalized terms used in this Agreement shall be defined as set forth in the Act, the ERO Regulations, the NERC Rules of Procedure, or the NERC Glossary of Terms Used in Reliability Standards, or, if not so defined, shall be defined as set forth in this Section 1 or elsewhere in the text of this Agreement:

(a) **Breach** means (i) the failure of a Party to perform or observe any material term, condition or covenant of the Agreement or (ii) a representation in Section 2 of the Agreement shall have become materially untrue.

(b) **Cross-Border Regional Entity** means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

(c) **Delegated Authority** means the authority delegated by NERC to ~~[REGIONAL ENTITY]~~WECC to propose and enforce Reliability Standards, consistent with Section 4(d) and the boundaries identified in **Exhibit A** pursuant to the Act and to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the ERO Regulations and this Agreement.

2. **Representations.**

(a) For purposes of its Delegated Authority, ~~[REGIONAL ENTITY]~~WECC hereby represents and warrants to NERC that:

(i) ~~[REGIONAL ENTITY]~~WECC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from

executing this Agreement and fulfilling its obligations hereunder. ~~[REGIONAL ENTITY]WECC~~ is governed in accordance with its bylaws by ~~[select appropriate: an independent board/a balanced stakeholder board/a combination independent and balanced stakeholder board]~~ Board. Pursuant to these bylaws, no two industry sectors can control any ~~[REGIONAL ENTITY]WECC~~ decision and no single industry sector can veto any ~~[REGIONAL ENTITY]WECC~~ decision. The relevant criteria for the establishment of such bylaws are attached hereto in **Exhibit B**. No other ~~[REGIONAL ENTITY]WECC~~ corporate governance documents shall be inconsistent with the criteria in **Exhibit B**.

(ii) ~~[REGIONAL ENTITY]WECC~~ has developed a standards development procedure, which provides the process that ~~[REGIONAL ENTITY]WECC~~ may use to develop Regional Reliability Standards ~~[and Regional Variances, if the regional entity is organized on an Interconnection wide basis]~~ that are proposed to NERC for adoption.

(iii) As set forth in **Exhibit D** hereto, ~~[REGIONAL ENTITY]WECC~~ has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within ~~[REGIONAL ENTITY]'s WECC's~~ geographic boundaries as shown in **Exhibit A**.

(b) NERC hereby represents and warrants to ~~[REGIONAL ENTITY]WECC~~ that:

(i) NERC is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement and that no applicable law, contract or other legal obligation prevents it from executing this Agreement and fulfilling its obligations hereunder; and

(ii) NERC has been certified as the ERO by the Commission pursuant to the Act.

(iii) NERC shall comply with its Certificate of Incorporation, Bylaws and Rules of Procedure, as from time to time adopted, approved or amended.

3. General Covenants.

(a) During the term of this Agreement, ~~[REGIONAL ENTITY]WECC~~ shall maintain and preserve its qualifications for delegation pursuant to the Act and shall not amend its Regional Entity Rules without NERC approval, which shall not be unreasonably withheld or

delayed and which shall, in the case of a Regional Entity organized on an Interconnection-wide basis, be governed by the presumptions provided for in Section 215(d)(2) and (e)(4)(C) of the Act, and be subject to any required Commission approval.

(b) ~~{REGIONAL ENTITY}WECC~~ shall provide NERC with a copy of its Regional Entity Rules upon request by NERC.

(c) During the term of this Agreement, NERC shall maintain its qualification and status as the ERO pursuant to the Act and, subject to the provisions of Sections 17 and 18 of this Agreement, NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations or programs of ~~{REGIONAL ENTITY}WECC~~ under this Agreement without first obtaining the consent of ~~{REGIONAL ENTITY}, WECC~~, which consent shall not be unreasonably withheld or delayed.

(d) During the term of this Agreement, NERC and ~~{REGIONAL ENTITY}WECC~~ shall adhere to and require that all participants in their respective activities under this Agreement follow and comply with the NERC Antitrust Compliance Guidelines.

(e) For purposes of this Agreement, NERC shall collaborate with the Regional Entities in the development of guidance, policies and procedures, and oversight parameters as contemplated by this Agreement. In the event that collaboration is not successful on any such matter, the NERC President may issue a directive with respect to such matter pursuant to Section 8 herein, and such directive shall be binding upon ~~{REGIONAL ENTITY}, WECC~~.

4. Delegation of Authority.

(a) Based upon the representations, warranties and covenants of ~~{REGIONAL ENTITY}WECC~~ in this Agreement, ~~{REGIONAL ENTITY}'s}WECC's~~ corporate governance documents, ~~the {REGIONAL ENTITY}'s}WECC's~~ standards development process, and the compliance monitoring and enforcement program set forth in **Exhibit D**, NERC hereby delegates authority, pursuant to Section 215(e)(4) of the Act, to ~~{REGIONAL ENTITY}WECC~~ for the purpose of proposing Reliability Standards to NERC, as set forth in Section 5 of this Agreement, and enforcing Reliability Standards, as set forth in Section 6 of this Agreement, within the geographic boundaries and such other scope set forth in **Exhibit A**, provided, that ~~{REGIONAL ENTITY}WECC~~ shall not monitor and enforce compliance with Reliability

Standards for ~~{REGIONAL ENTITY}WECC~~ or an affiliated entity with respect to reliability functions for which ~~{REGIONAL ENTITY}WECC~~ or an affiliate is a Registered Entity. For avoidance of doubt, Peak Reliability (or its successor) is not an affiliated entity of WECC for purposes of this Section 4(a). Any exclusions from this delegation of authority to ~~{REGIONAL ENTITY}WECC~~ within, or additions to this delegation of authority to ~~{REGIONAL ENTITY}WECC~~ beyond, the geographic boundaries set forth in **Exhibit A** are stated in **Exhibit A**.

(b) In circumstances where ~~{REGIONAL ENTITY}WECC~~ or an affiliated entity is a Registered Entity, ~~{REGIONAL ENTITY}WECC~~ shall enter into an agreement with another Regional Entity or NERC for the other Regional Entity or NERC to monitor and enforce ~~{REGIONAL ENTITY}'s WECC's~~ or affiliate's compliance with Reliability Standards. Such agreements are subject to NERC and Commission approval.

(c) Nothing in this Agreement shall prohibit ~~{REGIONAL ENTITY}WECC~~ from entering into an arrangement between one or more other Regional Entities to perform compliance monitoring and enforcement activities outside of its region, on behalf of NERC and/or other Regional Entities, for Registered Entities that have registered functions monitored by more than one Regional Entity, subject to approval by NERC.

(d) For Cross-Border Regional Entities, the authority delegated by this Agreement shall extend only to the portion of the region identified in **Exhibit A** that is within the United States. Any delegation of authority by Applicable Governmental Authorities in Canada or Mexico shall be governed by the law of such authority or a separate agreement and is outside the scope of this Agreement; provided, however, that both ~~{REGIONAL ENTITY}WECC~~ and NERC shall endeavor to ensure that this Agreement and any such separate agreement are compatible.

(e) As a condition to this delegation of authority and subject to the provisions of Section 17 of this Agreement, ~~{REGIONAL ENTITY}WECC~~ shall comply with the applicable provisions of NERC's Certificate of Incorporation, Bylaws, Rules of Procedure, and Reliability Standards, as from time to time adopted, approved, or amended.

5. Development and Proposal of Reliability Standards.

(a) In connection with its Delegated Authority, ~~[REGIONAL ENTITY]WECC~~ shall be entitled to:

(i) propose Reliability Standards, Regional Variances, or modifications thereof to NERC, which shall be considered by NERC through an open and inclusive process for proposing and adopting Reliability Standards that affords ~~[REGIONAL ENTITY]WECC~~ reasonable notice and opportunity to be heard; and

(ii) develop Regional Reliability Standards ~~and Regional Variances, if Regional Entity is organized on an Interconnection-wide basis~~ through ~~[REGIONAL ENTITY]'s WECC's~~ process. ~~[REGIONAL ENTITY]'s WECC's~~ process shall be consistent with the NERC Rules of Procedure and Commission directives. Any changes to ~~[REGIONAL ENTITY]'s WECC's~~ process shall be submitted to the NERC Board of Trustees for approval and upon approval, be submitted to the Commission for approval. Proposals approved through ~~[REGIONAL ENTITY]'s WECC's~~ process shall be reviewed by the NERC Board of Trustees after NERC provides notice and an opportunity for interested persons to comment. In the case of a proposal from a Regional Entity organized on an Interconnection-wide basis, comments shall be limited to the factors identified in NERC Rule of Procedure 312.3 as it may be amended from time to time. The NERC Board of Trustees shall promptly thereafter consider such proposed Regional Reliability Standard or Regional Variance, applying the rebuttable presumption described in subsection 5(b) of this Agreement if the proposed Regional Reliability Standard or Regional Variance is from a Regional Entity organized on an Interconnection-wide basis, and either approve the proposed Regional Reliability Standard or Regional Variance and submit it to the Commission for approval, or disapprove it in writing setting forth its reasons. ~~[REGIONAL ENTITY]WECC~~ may appeal any disapproval of a proposed Regional Reliability Standard or Regional Variance to the Commission.

(b) Pursuant to Section 215(d)(3) of the Act, NERC shall rebuttably presume that a proposal from a Regional Entity organized on an Interconnection-wide basis for a Regional Reliability Standard or Regional Variance or modification thereof to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest. Any person challenging such proposal from the Regional Entity

organized on an Interconnection-wide basis shall have the burden of proof. NERC shall not find that this presumption has been rebutted except based upon substantial evidence that has been disclosed to, and been subject to comment by, the Interconnection-wide Regional Entity during NERC's review of the proposal.

6. Enforcement of Compliance with Reliability Standards.

(a) In connection with its delegated authority pursuant to this Agreement, ~~{REGIONAL ENTITY}~~WECC shall enforce Reliability Standards (including Regional Reliability Standards and Regional Variances) within the boundaries set forth in **Exhibit A** through the compliance monitoring and enforcement program set forth in **Exhibit D**. NERC and ~~{REGIONAL ENTITY}~~WECC agree that this compliance monitoring and enforcement program meets all applicable requirements of the Act, Order No. 672 of the Commission, and the ERO Regulations, including, inter alia, the requirement for an audit program pursuant to Section 39.7(a) of the ERO Regulations, the assessment of penalties pursuant to Section 39.7(c) through 39.7(g) of the ERO Regulations and the requirements for due process. ~~{REGIONAL ENTITY}~~WECC may not change its compliance monitoring and enforcement program set forth in **Exhibit D** absent NERC's approval, which shall not be unreasonably withheld or delayed, and the approval of the Commission. Subject to the rights and limitations specified in Sections 17 and 18 of this Agreement, ~~{REGIONAL ENTITY}~~WECC agrees to comply with the NERC Rules of Procedure, with any directives issued pursuant to Section 8(c) of this Agreement, and with any guidance and directions issued by the NERC Board of Trustees or a Board committee pursuant to Section 8(d) of this Agreement, in implementing this program.

(b) ~~{REGIONAL ENTITY}~~WECC shall maintain a program of proactive monitoring and enforcement of compliance with Reliability Standards, in accordance with the NERC Compliance Monitoring and Enforcement Program and the annual ERO Compliance Monitoring and Enforcement Program Implementation Plan.

(c) ~~{REGIONAL ENTITY}~~WECC shall report promptly to NERC information regarding noncompliance with a Reliability Standard, and its eventual disposition by ~~{REGIONAL ENTITY}~~WECC, as set forth in, and subject to the confidentiality and disclosure provisions of, the NERC Rules of Procedure, the NERC Compliance Monitoring and Enforcement Program, this Agreement, compliance and enforcement program procedures and

guidance that NERC may from time to time develop and the ERO Regulations. NERC shall promptly forward such report to the Commission, as required by the ERO Regulations, or as the Commission shall from time to time direct. NERC and ~~[REGIONAL ENTITY]WECC~~ shall cooperate in filing such periodic summary reports and analyses as the Commission shall from time to time direct.

(d) All dispositions by ~~[REGIONAL ENTITY]WECC~~ of noncompliance with Reliability Standards shall be reported to NERC for review. NERC shall develop and implement policies and procedures for the review and, where appropriate, approval of dispositions of noncompliance.

(e) As part of its compliance monitoring and enforcement program, ~~[REGIONAL ENTITY]WECC~~ shall maintain a conflict of interest policy that assures the integrity and independence of such program, including the integrity and independence of the persons or decision-making bodies making final determinations in compliance enforcement actions under Section 5.0 of the NERC Compliance Monitoring and Enforcement Program. ~~A Regional EntityWECC~~ may have stakeholders lead or participate in its board compliance committee so long as integrity and independence are assured through reasonable and appropriate recusal procedures.

~~(f) — [For Regional Entities with such agreements: [REGIONAL ENTITY] may also perform compliance monitoring and enforcement activities outside of the boundaries shown in Exhibit A, on behalf of a Regional Entity that is unable to perform such activities with respect to one or more registered entities within its footprint due to a conflict of interest. Such activities shall be performed pursuant to a contract between [REGIONAL ENTITY] and other such Regional Entity that is approved by both NERC and the Commission.]~~

7. Delegation-Related Activities.

NERC will engage ~~[REGIONAL ENTITY]WECC~~ on its behalf to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC's responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed in **Exhibit E**. NERC may from time to time develop policies or procedures, which shall be used by ~~[REGIONAL ENTITY]WECC~~ in the performance of the delegation-related activities. These delegation-related activities shall include, but are not

limited to, those described in subsections (a) through (g), each of which shall be considered a statutory activity:

(a) **Certification of Bulk-Power System Entities.** The NERC Board of Trustees shall set criteria for certification in accordance with the NERC Rules of Procedure. Certifications shall be issued in accordance with the NERC Rules of Procedure.

(b) **Registration of owners, operators, and users of the Bulk-Power System as responsible for compliance with requirements of Reliability Standards.**

(i) The NERC Board of Trustees shall develop criteria for registration of owners, operators, and users of the Bulk-Power System as Registered Entities and shall apply the registration criteria to register owners, operators and users of the Bulk-Power System as Registered Entities.

(ii) NERC shall maintain a registration database of Registered Entities, based on data and information provided by ~~REGIONAL ENTITY~~WECC and other Regional Entities. ~~REGIONAL ENTITY~~WECC shall provide timely and accurate information relating to registrations to NERC, as needed, to enable NERC to maintain a registration database that is accurate and up-to-date and to enable NERC to satisfy its monthly reporting obligation.

(iii) The NERC Board of Trustees Compliance Committee shall hear and decide appeals from owners, operators and users of the Bulk-Power System contesting registration, in accordance with the NERC Rules of Procedure. If the NERC Board of Trustees Compliance Committee upholds the decision to register an owner, operator, or user, NERC shall defend the decision in any subsequent appeal of the decision by the Registered Entity to the Commission.

(c) **Reliability Assessment and Performance Analysis.** ~~REGIONAL ENTITY~~WECC shall develop assessments of the reliability of the Bulk-Power System, or ensure that data and information are collected, analyzed and provided to NERC in support of the development of reliability assessments, in accordance with the NERC Rules of Procedure. ~~REGIONAL ENTITY~~WECC shall also develop and maintain, and collect data in support of the development and maintenance of, reliability performance metrics and assessments of risks to the Reliable Operation of the Bulk-Power System, in accordance with the NERC Rules of

Procedure and NERC directives, and policies and procedures related to data-gathering, quality control, forms, and reporting mechanisms that NERC may from time to time develop.

(d) **Event Analysis and Reliability Improvement.** ~~{REGIONAL ENTITY}~~WECC shall conduct event analysis pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop. NERC and ~~{REGIONAL ENTITY}~~WECC shall coordinate event analysis to support the effective and efficient use of their collective resources, consistency in event analysis, and timely delivery of event analysis reports. In collaboration with NERC, ~~{REGIONAL ENTITY}~~WECC shall disseminate to the electric industry lessons learned and other information obtained or resulting from event analysis.

(e) **Training and Education.** ~~{REGIONAL ENTITY}~~WECC may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

(f) **Situation Awareness.** ~~{REGIONAL ENTITY}~~WECC shall gather and assess situation awareness information provided by Registered Entities pursuant to the NERC Rules of Procedure, applicable governmental regulations, and policies and procedures that NERC may from time to time develop, and shall provide other data, information and assistance to NERC in support of NERC's activities in monitoring present conditions, and responding to events, on the Bulk-Power System.

(g) **Critical Infrastructure Security.** ~~{REGIONAL ENTITY}~~WECC shall collaborate with NERC in its efforts to coordinate electric industry activities to promote critical infrastructure protection of the Bulk-Power System in North America.

8. Oversight of Performance of Delegated Functions and Related Activities.

This Section 8 sets forth processes and procedures which the Parties intend shall be used in NERC's oversight of ~~{REGIONAL ENTITY}~~'sWECC's performance of its Delegated Authority and related activities pursuant to this Agreement. It is the intent of NERC and ~~{REGIONAL ENTITY}~~WECC that matters relating to NERC's oversight of ~~{REGIONAL~~

~~ENTITY~~'s WECC's performance of its Delegated Authority and related activities shall be established or resolved by collaboration between NERC and ~~REGIONAL ENTITY~~WECC and, where applicable, other Regional Entities, to the maximum extent possible, consistent with the construct that NERC and the Regional Entities are operating together in a collaborative manner to carry out the responsibilities of the ERO under Section 215 of the Act and the ERO Regulations.

(a) (i) NERC shall develop, in collaboration with ~~REGIONAL ENTITY~~WECC and other Regional Entities, performance goals, performance reports, measures and other parameters (including, without limiting the scope of such goals, financial performance goals), which shall be used to measure NERC's and ~~REGIONAL ENTITY~~'s WECC's performance of their respective functions and related activities. The performance goals, measures and parameters and the form of performance reports shall be approved by the NERC President and shall be made public. ~~REGIONAL ENTITY~~WECC shall provide data, information and reports to NERC, in accordance with established schedules, to enable NERC to calculate ~~REGIONAL ENTITY~~'s WECC's performance to the agreed-upon goals, measures and parameters.

(ii) NERC shall use the performance goals, measures and parameters, and performance reports to evaluate ~~REGIONAL ENTITY~~'s WECC's performance of its delegated functions and related activities and to provide advice and direction to ~~REGIONAL ENTITY~~WECC on performance improvements. The performance goals, measures and other parameters, and the values of such goals, measures and parameters, shall be reviewed by NERC, ~~REGIONAL ENTITY~~WECC and the other Regional Entities, revised if appropriate, and made public, on the same timeline as the annual business planning and budgeting process described in Section 9 of this Agreement.

(iii) At the request of the President of NERC, ~~REGIONAL ENTITY~~WECC shall be required to develop, submit for NERC approval, and implement action plans to address, areas of its performance that are reasonably determined by NERC, based on analysis of ~~REGIONAL ENTITY~~'s WECC's performance against the performance goals, measures and parameters, or performance of specific activities, to be unsatisfactory, *provided*, that prior to requiring ~~REGIONAL ENTITY~~WECC to adopt and implement an action plan or other

remedial action, NERC shall issue a notice to ~~[REGIONAL ENTITY]~~WECC of the need and basis for an action plan or other remedial action and provide an opportunity for ~~[REGIONAL ENTITY]~~WECC to submit a written response contesting NERC's evaluation of ~~[REGIONAL ENTITY]~~'s WECC's performance and the need for an action plan. ~~[REGIONAL ENTITY]~~WECC may request that the President of NERC reconsider the request, and thereafter may request that the NERC Board of Trustees review and reconsider the request. NERC and ~~[REGIONAL ENTITY]~~WECC shall work collaboratively as needed in the development and implementation of ~~[REGIONAL ENTITY]~~'s WECC's action plan. A final action plan submitted by ~~[REGIONAL ENTITY]~~WECC to NERC shall be made public unless the President of NERC makes a written determination that the action plan or specific portions of the plan should be maintained as non-public.

(b) NERC shall make available to ~~[REGIONAL ENTITY]~~WECC standardized training and education programs, which shall be designed taking into account input from ~~[REGIONAL ENTITY]~~WECC and other Regional Entities, for ~~[REGIONAL ENTITY]~~WECC personnel on topics relating to the delegated functions and related activities.

(c) (i) NERC may issue directives to ~~[REGIONAL ENTITY]~~WECC concerning the manner in which ~~[REGIONAL ENTITY]~~WECC shall perform its delegated functions and related activities under this Agreement. The NERC Rules of Procedure, or any other ERO Rule requiring approval of the Commission, shall not be considered "directives." NERC shall initiate the development of a directive through a collaborative process with ~~[REGIONAL ENTITY]~~WECC and, if applicable, other Regional Entities to which the directive will apply. Any directive developed through the collaborative process shall be approved by, and issued under the signature of, the NERC President.

(ii) If after a period of time that is reasonable under the circumstances, NERC and ~~[REGIONAL ENTITY]~~WECC and, if applicable, other Regional Entities, are unable to reach agreement on the contents of the directive, NERC may issue the directive with the approval of and under the signature of the NERC President.

(iii) Upon issuance of a directive by the NERC President, it shall be binding upon, and shall be complied with by, ~~[REGIONAL ENTITY]~~WECC, subject to reasonable time periods for adoption, implementation, and funding of any necessary resources. Upon

request by ~~{REGIONAL ENTITY}~~, WECC, the NERC Board of Trustees (or a committee of the Board to which the Board delegates appropriate authority) shall review and shall confirm, revise or revoke any directive that was issued by the NERC President without ~~{REGIONAL ENTITY}'s~~ WECC's agreement, *provided*, that ~~{REGIONAL ENTITY}~~ WECC shall request such review within thirty (30) days following issuance of the directive by the NERC President unless good cause can be shown for a later request.

(iv) NERC and ~~{REGIONAL ENTITY}~~ WECC and, if applicable, other Regional Entities, shall collaborate in deciding whether a directive (whether issued pursuant to paragraph (ii) or paragraph (iii)) shall be made public. If no agreement is reached by the date of issuance as to whether the directive shall be made public, the NERC President shall decide whether the directive will be made public, *provided*, that it is the intent of the Parties that the NERC President shall apply a presumption that directives should be made public, unless the NERC President makes a written determination stating a specific reason for maintaining a particular directive as non-public.

(d) In addition to the issuance of directives pursuant to subsection (c), the NERC Board of Trustees (or a Board committee to which the Board has delegated authority) may issue guidance or directions as to the manner in which ~~{REGIONAL ENTITY}~~, WECC, and, if applicable, other Regional Entities, shall perform delegated functions and related activities. The NERC Board of Trustees or Board committee shall also establish reasonable time periods for the implementation of any such guidance or directions, taking into account the impact on the reliability of the Bulk-Power System and the need for funding of additional resources. Any such guidance or directions shall be stated in writing and shall be public, unless the NERC Board of Trustees or Board committee makes a written determination stating a specific reason for maintaining particular guidance or directions as non-public. ~~{REGIONAL ENTITY}~~, WECC, either individually or in conjunction with other Regional Entities, may request that the NERC Board of Trustees or Board committee reconsider or revise the guidance or direction.

(e) NERC shall conduct collaborative reviews with ~~{REGIONAL ENTITY}~~, WECC, either individually or in conjunction with one or more other Regional Entities, that provide for the exchange of information on practices, experiences, and lessons learned in the

implementation of the delegated functions.

(f) NERC may perform reviews of ~~{REGIONAL ENTITY}~~WECC on a reasonable periodicity to determine ~~{REGIONAL ENTITY}~~'s the WECC's compliance with this Agreement, any policies or procedures established by NERC, NERC's Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c) and to monitor the implementation of guidance and directions issued by the NERC Board of Trustees pursuant to Section 8(d). All such periodic reviews shall comply with the NERC Rules of Procedure and Commission directives.

(g) The Commission and the Commission staff shall have full access to action plans and remedial actions, directives, and directions and guidance issued pursuant to subsections (a)(iii), (c)(iv) and (d), respectively, that are maintained as non-public.

9. Funding. ~~{REGIONAL ENTITY}~~WECC and NERC shall ensure, subject to Commission approval in accordance with the ERO Regulations, that the delegated functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E** have reasonable and adequate funding and resources by undertaking the following:

(a) ~~{REGIONAL ENTITY}~~WECC shall develop, through a collaborative process with NERC, and propose, an annual business plan and budget, in accordance with ERO Regulations, Commission orders and NERC business planning and budgeting policies and instructions. ~~{REGIONAL ENTITY}~~'s WECC's proposed business plan and budget shall describe the activities necessary for, and provide a budget with adequate resources for, ~~{REGIONAL ENTITY}~~WECC to carry out its Delegated Authority under this Agreement, including the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E**. ~~{REGIONAL ENTITY}~~'s WECC's business plan and budget shall show the funding sources and amounts to fund the proposed budget, including as applicable assessments to end users, penalty monies, and other sources of funds.

(b) ~~{REGIONAL ENTITY}~~WECC and NERC agree that the portion of ~~{REGIONAL ENTITY}~~'s WECC's approved budget for the functions and activities described in Sections 5, 6 and 7 and listed in **Exhibit E** that is to be funded by assessments, will be equitably allocated among end users within the geographic boundaries described in **Exhibit A** and recovered

through a formula based on Net Energy for Load, or through such other formula as is proposed by ~~{REGIONAL ENTITY}WECC~~ and approved by NERC and the Commission. If ~~{REGIONAL ENTITY}WECC~~ proposes to use a formula other than Net Energy for Load beginning in the following year, ~~{REGIONAL ENTITY}WECC~~ shall submit the proposed formula to NERC in sufficient time that NERC may review and approve the proposed formula and file it with the Commission by May 15 for approval, and the proposed formula shall be effective for the following year if approved by the Commission on or before the date the Commission approves the annual business plan and budget submitted by NERC and ~~{REGIONAL ENTITY}WECC~~ to the Commission pursuant to the ERO Regulations for such year.

(c) NERC shall determine that the assessments to fund the costs for its statutory functions in its Commission-approved budget are first allocated fairly among the Interconnections and regions according to the applicability of this work to those Interconnections and regions, and then equitably among the end users of the applicable interconnections and regions as appropriate. Allocation on a Net Energy for Load basis will be presumed to satisfy this equitability requirement.

(d) NERC shall provide ~~{REGIONAL ENTITY}WECC~~ with the form or forms for business plan and budget submittal, and any accompanying instructions, in accordance with the schedule for preparation of the business plan and budget developed by NERC and the Regional Entities.

(e) ~~{REGIONAL ENTITY}WECC~~ shall submit its proposed annual business plan and budget for carrying out its Delegated Authority functions and related activities described in Sections 5, 6 and 7 and listed in **Exhibit E**, as well as for all other activities of ~~{REGIONAL ENTITY}WECC~~, to NERC for review and approval in accordance with the annual schedule for the preparation of business plans and budgets which shall be developed collaboratively by NERC and the Regional Entities, as more fully described in **Exhibit E**.

(f) NERC shall fund ~~{REGIONAL ENTITY}'sWECC's~~ performance of its Delegated Authority and related activities in accordance with ~~{REGIONAL ENTITY}'sWECC's~~ Commission- approved business plan and budget, in the amount of ~~{REGIONAL ENTITY}'sWECC's~~ assessments to end users approved by the Commission. **Exhibit E** sets

forth the procedures and timing for billing and collecting ~~[REGIONAL ENTITY]'s WECC's~~ approved assessments from end users and other entities and payment of the approved assessment amount to ~~[REGIONAL ENTITY], WECC~~, unless otherwise modified and approved by NERC and the Commission. NERC shall not impose any material obligation or requirement regarding the Delegated Authority upon ~~[REGIONAL ENTITY] WECC~~ that has not been provided for in an approved business plan and budget or an approved amended or supplemental business plan and budget, without ~~[REGIONAL ENTITY]'s WECC's~~ consent.

(g) NERC shall develop, in consultation with the Regional Entities, a reasonable and consistent system of accounts, with a level of detail and record keeping comparable to the Commission's Uniform System of Accounts and sufficient to allow the Commission to compare each Commission-approved NERC and ~~[REGIONAL ENTITY] WECC~~ fiscal year budget with the actual results at the NERC and Regional Entity levels. ~~[REGIONAL ENTITY] WECC~~ shall follow NERC's prescribed system of accounts except to the extent that NERC permits a departure from the prescribed system of accounts. NERC shall make an informational filing with the Commission describing any such waiver it permits and providing an explanation supporting the permitted departure.

(h) ~~[REGIONAL ENTITY] WECC~~ shall submit unaudited quarterly interim financial statements in form provided by NERC no later than 20 days after the end of the fiscal quarter (March 31, June 30, September 30, and December 31).

(i) ~~[REGIONAL ENTITY] WECC~~ shall submit audited financial statements annually, including supporting materials, in a form provided by NERC, by no later than the date reasonably required and designated in writing by NERC to enable NERC to assemble and file the required annual budget to actual true up filing with the Commission.

(j) **Exhibit E** to this Agreement sets forth the mechanism through which ~~[REGIONAL ENTITY] WECC~~ shall offset penalty monies it receives (other than penalty monies received from an operational function or division or affiliated entity of ~~[REGIONAL ENTITY] WECC~~) against its next year's annual budget for carrying out functions under this Agreement, and the mechanism by which ~~[REGIONAL ENTITY] WECC~~ shall transmit to NERC any penalty monies received from an operational function or division or affiliated entity of ~~[REGIONAL ENTITY] WECC~~. *Provided*, that, subject to approval by NERC and the

Commission, ~~REGIONAL ENTITY~~WECC may propose and implement an alternative use of penalty monies to that set forth in **Exhibit E**.

10. Assignment. This Agreement may be assigned by either Party only with the prior written consent of the other, which consent shall be granted or withheld in such non-assigning Party's sole discretion, subject to approval by the Commission. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. ~~REGIONAL ENTITY~~WECC may not delegate in whole or in part its Delegated Authority to any other entity without NERC's express consent; provided, however, that nothing in this provision shall prohibit ~~REGIONAL ENTITY~~WECC from contracting with other entities to assist it in carrying out its Delegated Authority, provided ~~REGIONAL ENTITY~~WECC retains control and responsibility for such Delegated Authority.

11. Default and Cure. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the breaching Party (the "Default Notice"). Subject to a suspension of the following deadlines as specified below, the breaching Party shall have thirty (30) calendar days from receipt of the Default Notice within which to cure such Breach; *provided however*, that if such Breach is not capable of cure within thirty (30) calendar days, the breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default Notice; and, if cured within such time, the Breach specified in such notice shall cease to exist. Subject to the limitation specified in the following sentence, if a Breach is not cured as provided in this Section 11, or if a Breach is not capable of being cured within the period provided for herein, the nonbreaching Party shall have the right to declare a default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder. The deadlines for cure and the right to declare a default and terminate this Agreement shall be suspended during the pendency of any efforts or proceedings in accordance with Section 18 of this Agreement to resolve a dispute as to whether a Breach has occurred or been cured. The provisions of this Section 11 will survive termination of this Agreement.

12. Term and Termination.

(a) This Agreement shall become effective on ~~January 1, 2016~~ (the "Effective

Date”).

(b) The term of this Agreement shall commence on the Effective Date, and shall have an initial term of five years (the “Term”), ending on December 31, 2020. Thereafter, the Term shall automatically extend for one additional five-year term unless either Party shall provide written notice of termination of this Agreement to the other no later than one year prior to the then effective expiration of the Term. In such event, this Agreement shall terminate upon the expiration of then effective Term, unless otherwise mutually agreed to by the Parties.

(c) In the event of the termination of this Agreement, the Parties shall work to provide for a transition of ~~{REGIONAL ENTITY}~~’s WECC’s Delegated Authority to NERC or to another eligible entity and to provide for the resolution of any wind-up costs associated with termination of this Agreement.

(d) If any provision of this Agreement, or the application thereof to any person, entity or circumstance, is held by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, the Parties shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the signatories under this Agreement immediately prior to such holding, modification or condition. If either Party finds such holding, modification or condition unacceptable and the Parties are unable to renegotiate a mutually acceptable resolution, either Party may unilaterally terminate this Agreement. Such termination shall be effective one year following written notice by either Party to the other Party and to the Commission, or at such other time as may be mutually agreed by ~~{REGIONAL ENTITY}~~WECC and NERC.

(e) Notwithstanding any termination of this Agreement, provisions contained in Limitation of Liability (Section 13), No Third Party Beneficiaries (Section 14) and Confidentiality (Section 15) shall survive this Agreement in accordance with their terms until sixty (60) days following the expiration of any applicable statute of limitations.

13. Limitation of Liability. ~~{REGIONAL ENTITY}~~WECC and NERC agree not to sue each other or their directors, officers, employees, and persons serving on their committees and

subgroups based on any act or omission of any of the foregoing in the performance of duties pursuant to this Agreement or in conducting activities under the authority of Section 215 of the Act, other than seeking a review of such action or inaction by the Commission. NERC and ~~REGIONAL ENTITY~~WECC shall not be liable to one another for any damages whatsoever, including without limitation, direct, indirect, incidental, special, multiple, consequential (including attorneys' fees and litigation costs), exemplary, or punitive damages arising out of or resulting from any act or omission associated with the performance of ~~REGIONAL ENTITY~~'sWECC's or NERC's responsibilities under this Agreement or in conducting activities under the authority of Section 215 of the Act, except to the extent that ~~REGIONAL ENTITY~~WECC or NERC is found liable for gross negligence or intentional misconduct, in which case ~~REGIONAL ENTITY~~WECC or NERC shall not be liable for any indirect, incidental, special, multiple, consequential (including without limitation attorneys' fees and litigation costs), exemplary, or punitive damages.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party, except as otherwise specifically provided herein and in Section 15(c).

15. Confidentiality.

(a) During the course of the Parties' performance under this Agreement, a Party may receive proprietary, business sensitive, or critical infrastructure information ("Confidential Information") necessary to fulfill its respective obligations in connection with this Agreement. The Parties agree that their mutual objective under this provision is to provide appropriate protection for Confidential Information, while maintaining the ability to conduct their respective business activities.

(b) No obligation of confidentiality shall apply to any information that the recipient: (i) already possesses without obligation of confidentiality; (ii) develops independently; or (iii) rightfully receives without any obligation of confidentiality from a third party.

(c) The Parties may transfer or exchange such Confidential Information with and between the other Regional Entities as third-party beneficiaries of the terms of this Agreement, provided the Parties and the other Regional Entities as third-party beneficiaries continue to

maintain the confidentiality of such information.

(d) Except as set forth herein and within the NERC Rules of Procedure, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party or specified third-party beneficiary of this Agreement, unless disclosure is required by subpoena, law, or other directive of a court, administrative agency, or arbitration panel, in which event the recipient hereby agrees to provide the Party or specified third-party beneficiary of this Agreement that provided the Confidential Information with prompt notice of such request or requirement in order to enable such issuing Party or specified third-party beneficiary of this Agreement to (a) seek an appropriate protective order or other remedy, (b) consult with the recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole or in part, with the terms of this Section. In the event a protective order or other remedy is not obtained or the issuing Party or specified third-party beneficiary of this Agreement waives compliance with the provisions, the recipient agrees to furnish only that portion of the Confidential Information which the recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information.

(e) Each Party shall ensure that its officers, trustees, directors, employees, subcontractors and subcontractors' employees, and agents to whom Confidential Information is exposed are under obligations of confidentiality that are at least as restrictive as those contained herein.

(f) This confidentiality provision does not prohibit reporting and disclosure as directed by NERC, as set forth in Section 6 of this Agreement, nor does it prohibit permitted disclosures as set forth in the NERC Rules of Procedure.

16. Amendment. Neither this Agreement nor any of the terms hereof, may be amended unless such amendment is made in writing, signed by the Parties, and filed with and approved by the Commission.

17. Amendments to the NERC Rules of Procedure. NERC shall not adopt amendments to the NERC Rules of Procedure that conflict with the rights, obligations, or programs of

~~[REGIONAL ENTITY]WECC~~ under this Agreement without first obtaining the consent of ~~[REGIONAL ENTITY]WECC~~, which consent shall not be unreasonably withheld or delayed. To the extent ~~[REGIONAL ENTITY]WECC~~ does not consent, NERC shall have the right to invoke the dispute resolution provisions of Section 18 and, if such effort fails to resolve the dispute, to petition the Commission to adopt the amendment to the NERC Rules of Procedure. To the extent that the Commission issues an order amending or materially affecting the rights or obligations of ~~[REGIONAL ENTITY]WECC~~ under this Agreement, ~~[REGIONAL ENTITY]WECC~~ shall have the option, exercisable no later than 60 days after issuance of such order, to terminate this Agreement. Such termination shall be effective one year following written notice by ~~[REGIONAL ENTITY]WECC~~ to NERC and the Commission, or at such other time as may be mutually agreed by ~~[REGIONAL ENTITY]WECC~~ and NERC.

18. Dispute Resolution. In the event a dispute arises under this Agreement between NERC and ~~[REGIONAL ENTITY]WECC~~ (including disputes relating to NERC's performance of its obligations under this Agreement and/or disputes relating to ~~[REGIONAL ENTITY]'sWECC's~~ performance of its obligations under this Agreement) which cannot be resolved through discussions between representatives of the Parties in the normal course of operations, the Parties shall use the following procedures ("Dispute Resolution") to attempt to resolve the dispute. ~~[REGIONAL ENTITY]WECC~~ shall not suspend performance of any delegated function, and the Parties shall continue to make reasonable, good faith efforts to comply with their obligations under this Agreement, during the pendency of Dispute Resolution. All notices required to be sent pursuant to this Dispute Resolution procedure shall be sent in accordance with Section 19 of this Agreement. This Dispute Resolution procedure is separate from and in addition to all other processes provided for in this Agreement.

(a) The Party invoking Dispute Resolution shall send a notice to the other Party describing the dispute, stating the invoking Party's position with respect to the dispute, stating that the Party is invoking Dispute Resolution, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the invoking Party.

(b) Within three (3) business days after receipt of the notice invoking Dispute Resolution, the receiving Party shall send a notice to the invoking Party acknowledging receipt

of the notice invoking Dispute Resolution, stating the receiving Party's position with respect to the dispute, and naming the Party's designated representative for negotiating a resolution of the dispute. The designated representative shall have authority to resolve the dispute on behalf of the receiving Party.

(c) During the period commencing three (3) business days and ending twenty (20) business days after the date of the receiving Party's notice, the designated representatives shall engage in good faith negotiations to attempt to resolve the dispute, provided, that the designated representatives may agree prior to the end of such twenty (20) business day period that the process should move to the next step of Dispute Resolution.

(d) If the designated representatives are unable to arrive at a resolution of the dispute by the end of the time period described in subsection (c), they shall notify the chief executive officers of their respective Parties. The chief executive officers of the Parties shall thereafter engage in good faith negotiations to attempt to resolve the dispute during the period of twenty (20) business days immediately following the time period described in subsection (c), provided, that the chief executive officers may agree prior to the end of such twenty (20) business day period that negotiations are at impasse and the process may move to the next step as described in subsection (f). Upon mutual agreement of the Parties, the twenty (20) business day period may be extended to pursue ongoing good faith negotiations.

(e) If a resolution of the dispute is achieved by the Parties, it shall be memorialized in a writing that is acceptable in form and substance to each party and is signed by the designated representative or chief executive officer on behalf of each Party.

(f) If the Parties are unable to resolve the dispute pursuant to the process described in subsections (a) through (e), then either Party may invoke any other available dispute resolution mechanism, including, without limitation, filing a complaint or petition with the Commission requesting resolution of the dispute by the Commission, or filing a complaint for relief in a court having jurisdiction over Parties and the subject matter of the dispute in accordance with Section 20. Provided, however, that: (i) it is the intent of the Parties that unresolved disputes shall be presented to and resolved by the Commission if the Commission has and accepts jurisdiction over the subject matter of the dispute, (ii) the Parties may, by mutual agreement, attempt to resolve the dispute through arbitration, mediation, or other process involving resort to

an impartial neutral, and (iii) it is the intent of the Parties that resolution of disputes through Commission proceedings, arbitration, mediation, or other use of an impartial neutral, is preferred over resort to judicial proceedings.

(g) This Section 18 shall not apply to compliance enforcement actions against individual Registered Entities.

19. Notice. All notices, demands, requests, and other communications required, permitted by, or provided for in this Agreement shall be given in writing to a Party at the address set forth below, or at such other address as a Party shall designate for itself in writing in accordance with this Section, and shall be delivered by hand, email or overnight courier:

If to NERC:

North American Electric Reliability
Corporation
1325 G Street NW, Suite 600
Washington, DC 20005
Attn: General Counsel
Email: legal@nerc.net

If to ~~REGIONAL ENTITY~~: WECC:

Western Electricity Coordinating Council
155 North 400 West,
Suite 200
Salt Lake City, Utah 84103
Attn: General Counsel
Email: sgoodwill@wecc.biz

20. Governing Law. When not in conflict with or preempted by federal law, this Agreement will be governed by and construed in accordance with the laws of Georgia without giving effect to the conflict of law principles thereof. The Parties recognize and agree not to contest the exclusive or primary jurisdiction of the Commission to interpret and apply this Agreement; provided however that if the Commission declines to exercise or is precluded from exercising jurisdiction of any action arising out of or concerning this Agreement, such action shall be brought in any state or federal court of competent jurisdiction in Georgia. All Parties hereby consent to the jurisdiction of any state or federal court of competent jurisdiction in Georgia for the purpose of hearing and determining any action not heard and determined by the Commission.

21. Headings. The headings and captions in this Agreement are for convenience of reference only and shall not define, limit, or otherwise affect any of the terms or provisions hereof.

22. Savings Clause. Nothing in this Agreement shall be construed to preempt or limit any

authority that ~~REGIONAL ENTITY~~WECC may have to adopt reliability requirements or take other actions to maintain reliability of the Bulk-Power System within the geographic boundaries described in **Exhibit A** that are outside the Delegated Authority, as long as such reliability requirements and actions are not inconsistent with Reliability Standards applicable to the region described in **Exhibit A** and do not result in a lessening of reliability outside the region described in **Exhibit A**.

23. Entire Agreement. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

24. Execution of Counterparts. This Agreement may be executed in counterparts and each shall have the same force and effect as the original.

NOW THEREFORE, the parties have caused this Agreement to be executed by its duly authorized representatives, effective as of the Effective Date.

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

~~[REGIONAL ENTITY]~~WESTERN
ELECTRICITY COORDINATING
COUNCIL

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A — Regional Boundaries

~~Exhibit A to the delegation agreement for each Regional Entity receiving Delegated Authority shall describe the geographic or electrical boundaries covered by the proposed delegation of authority. Exhibit A for each Regional Entity shall reflect coordination with neighboring Regional Entities, as appropriate, to ensure that all relevant areas are either included within the geographic boundaries of a Regional Entity or specifically identified as not being within the geographic boundaries of any Regional Entity. Any exclusions of geographic or electrical areas or of Registered Entities from the scope of the Regional Entity's Delegated Authority within the geographic or electrical boundaries shown in Exhibit A, and any additions of geographic or electrical areas or of Registered Entities located outside the boundaries shown in Exhibit A to the scope of the Regional Entity's Delegated Authority, shall be specifically stated or described in Exhibit A.~~

WECC's physical boundaries coincide with the boundaries of the Western Interconnection. The Western Interconnection consists of the synchronously operated electric transmission grid in the western part of North America, which includes parts of Montana, Nebraska, New Mexico, South Dakota, Texas, Wyoming, and Mexico and all of Arizona, California, Colorado, Idaho, Nevada, Oregon, Utah, Washington and the Canadian Provinces of British Columbia and Alberta. The WECC region encompasses approximately 1.8 million square miles.

WECC's northern border runs along the northern border of British Columbia and Alberta. The western border extends along the western coast of North America from British Columbia into northern Baja California, Mexico. The southern border traverses northern Baja and extends along the southern United States border to Texas. The eastern border bisects North America from Alberta, Canada through the states of Montana, South Dakota, Wyoming, Nebraska, Texas and New Mexico to the southern United States border.

Exhibit B — Governance

The Regional Entity bylaws shall meet the following criteria:

CRITERION 1: The Regional Entity shall be governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board. (Federal Power Act § 215(e)(4)(A), 18 C.F.R. § 39.8(c)(1), Order No. 672 at ¶ 727.)

CRITERION 2: The Regional Entity has established rules that assure its independence from the users and owners and operators of the bulk power system, while assuring fair stakeholder representation in the selection of its directors. Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 699, 700.)

CRITERION 3: If the Regional Entity has members, the Regional Entity has established rules that assure that its membership is open, that it charges no more than a nominal membership fee and agrees to waive the fee for good cause shown, and that membership is not a condition for participating in the development of or voting on proposed Regional Reliability Standards. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶¶ 170-173.)

CRITERION 4: The Regional Entity has established rules that assure balance in its decision-making committees and subordinate organizational structures and assure no two industry sectors can control any action and no one industry sector can veto any action. (Federal Power Act § 215(c)(2)(A) and (e)(4), 18 C.F.R. § 39.8(c)(2), Order No. 672 at ¶ 728.)

CRITERION 5: The Regional Entity has established rules that provide reasonable notice and opportunity for public comment, due process, openness, and balance of interests in exercising its duties. (Federal Power Act § 215(c)(2)(D) and (e)(4), 18 C.F.R. § 39.8(c)(2).)

Exhibit C [Intentionally left blank]

Exhibit D — Compliance Monitoring and Enforcement Program

1.0 REGIONAL COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

~~[REGIONAL ENTITY]WECC~~ will implement the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure (which for purposes of this section 1.0 shall not include Attachment 2, Hearing Procedures), to monitor and enforce compliance with Reliability Standards by the owners, operators, and users within ~~[REGIONAL ENTITY]'sWECC's~~ geographic or electrical boundaries, and such other scope, set forth in **Exhibit A** of this Agreement.

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

~~[REGIONAL ENTITY],WECC,~~ to the extent required in the Rules of Procedure, shall establish and maintain a hearing body with authority to conduct and render decisions in compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, or a proposed mitigation plan, which shall be either ~~[REGIONAL ENTITY]'sWECC's~~ board, a committee of the board, a balanced compliance panel reporting directly to ~~[REGIONAL ENTITY]'sWECC's~~ board or an independent hearing panel. ~~[REGIONAL ENTITY]'sWECC's~~ hearing body is ~~[its board] [if not the board, insert the name of the committee or group serving as the hearing body]~~ the Compliance Hearing Body, a committee of the WECC Board comprised solely of directors, as set forth in the WECC Compliance Hearing Body Charter.

~~[If the hearing body is a compliance panel other than the board, provide here a description of how the members of the compliance panel are selected and the qualifications to be selected for the compliance panel.]~~

Consistent with the WECC Compliance Hearing Body Charter, hearing panels for individual matters will include directors and may include industry subject matter experts. No industry representative or member class shall control the outcome.

To the extent required in the Rules of Procedure, ~~[REGIONAL ENTITY]WECC~~ shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: ~~[Describe any deviations, or state "None." If there are deviations from the NERC pro forma Hearing Procedures, [REGIONAL ENTITY]'s Hearing Procedures shall be included as a separate attachment to this Exhibit D.]None.~~

3.0 OTHER DECISION-MAKING BODIES

~~If [REGIONAL ENTITY] uses other decision-making bodies within its compliance program, provide here a description of the function of that body to the extent not described elsewhere in the Agreement or exhibits, how the members of that body are selected, and the qualifications to be selected for that body.] None.~~

Exhibit E — Funding

1. Scope of Activities Funded through the ERO Funding Mechanism

~~{Regional Entity}~~WECC shall include in its annual budget submission to NERC amounts for costs it will incur in performing its delegated functions and related activities as described in Sections 5, 6 and 7 of the Agreement. These activities shall include:

- Reliability Standard Development
- Compliance Monitoring and Enforcement

This category includes activities under the WECC Reliability Management System

- Organization Registration and Certification
- Reliability Assessment and Performance Analysis (including necessary data gathering activities)

This category includes the WECC Transmission Expansion Planning Program, Loads and Resources Activities, and all necessary supporting activities

- Event Analysis and Reliability Improvement
- Training and Education

This category includes WECC's Training Programs

- Situation Awareness

As agreed to by NERC and WECC on an annual basis, this category includes WECC's Reliability Coordinator Functions, Western Interconnection Synchrophasor Program, WECC Interchange Tool, and all necessary supporting activities. If sub-delegated by WECC, the costs for the Reliability Coordinator Functions, Western Interconnection Synchrophasor Program, WECC Interchange Tool and necessary supporting activities shall not be included in WECC's annual budget submission to NERC but rather shall be included in the budget of Peak Reliability.

- Infrastructure Security

2. Preparation of Annual Business Plan and Budget

(a) NERC and ~~{Regional Entity}~~WECC, in conjunction with the other Regional Entities, shall collaboratively develop an annual schedule for the development, submission, review and approval of ~~{Regional Entity's}~~WECC's business plan and budget. The annual schedule for the preparation of business plans and budgets shall require ~~{Regional Entity}~~WECC (i) to submit to NERC draft(s) of ~~{Regional Entity}'s~~WECC's proposed business plan and budget and other preliminary documents and information, and (ii) to

submit a final proposed business plan and budget that has been approved by ~~{Regional Entity}~~the WECC Board of ~~Trustees~~Directors to NERC by July 1 or such other agreed date as provides sufficient time for NERC's review, approval and submission of ~~{Regional Entity}'s WECC's~~ business plan and budget to the Commission 130 days in advance of the beginning of each fiscal year. The ~~{Regional Entity}WECC~~ business plan and budget submission shall include supporting materials, including ~~{Regional Entity}'s WECC's~~ complete business plan and organization chart, explaining the proposed collection of all assessments, dues, fees and charges, and the proposed expenditure of the funds to be collected in sufficient detail to justify the requested budgeted expenditures and assessments. ~~{Regional Entity}'s WECC's~~ business plan and budget and proposed assessments shall provide for reasonable reserve mechanisms for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles.

(b) NERC shall review and approve ~~{Regional Entity}'s WECC's~~ proposed business plan and budget and proposed assessments for performing the delegated functions and related activities described in Sections 5, 6 and 7 of this Agreement and listed above in Section 1 of this **Exhibit E**, or shall direct ~~{Regional Entity}WECC~~ to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~{Regional Entity}'s WECC's~~ approved business plan and budget and proposed assessments to the Commission for approval as part of NERC's overall business plan and budget submission, in accordance with the ERO Regulations.

3. Allocation of Costs

Assessments to fund the costs of ~~{REGIONAL ENTITY}'s WECC's~~ delegated functions and related activities pursuant to the Agreement shall be allocated among all load-serving entities on the basis of Net Energy for Load, unless a different method(s) of allocating and calculating such assessments has been submitted to and approved by NERC and the Commission in accordance with Section 9(b) of the Agreement. ~~{Regional Entity}WECC~~ shall submit to NERC annually at the same time it submits its budget request a list of the load-serving entities or designees within its geographic boundaries that shall be responsible for paying ~~{Regional Entity}'s WECC's~~ assessment and the load-serving entities' proportionate Net Energy for Load, and such other data and information as is necessary to allocate and calculate the allocation of ~~{Regional Entity}'s WECC's~~ assessment to the load-serving entities or designees under the method(s) of allocation and calculation that will be used.

Entities on the list of LSEs or Balancing Authorities will be responsible for collection and/or payment of charges through the mechanism described in either Option 1 or 2 below. Each Balancing Authority will inform WECC by June 1st of each year of its choice of Option 1 or 2, and will give WECC at least 90 days' notice of its intention to change from one option to the other.

a. OPTION 1 -- The Balancing Authority will provide WECC a list of all LSEs located within its area, including each LSE's name, contact information, and Net Energy for Load. This information will be updated annually and provided to WECC no later than

June 1st of each year. WECC will use this list to bill each LSE for all costs on an annual basis.

b. OPTION 2 -- WECC will bill the Balancing Authority for all costs on an annual basis. The Balancing Authority will be responsible for equitably allocating WECC costs among the LSEs in its area (if applicable) on the basis of Net Energy for Load, collecting the funds, and ensuring that WECC receives full payment on an annual basis.

4. Collection of Funding

~~{IF NERC WILL BILL AND COLLECT ASSESSMENTS DIRECTLY FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):}~~

~~(a) NERC shall submit invoices to the load serving entities or designees identified by [Regional Entity] covering the NERC/NERC and [Regional Entity] assessments approved for collection.~~

~~{IF THE REGIONAL ENTITY WILL ACT AS THE BILLING AND COLLECTION AGENT ON BEHALF OF NERC TO BILL AND COLLECT ASSESSMENTS FROM LOAD-SERVING ENTITIES IN REGIONAL ENTITY'S REGION, USE THE FOLLOWING TEXT FOR SECTION 4(a):}~~

(a) ~~NERC and [Regional Entity]WECC~~ agree that ~~[Regional Entity]WECC~~ shall act as the billing and collection agent on behalf of NERC to bill and collect ~~[Regional Entity]'s~~ the NERC, WECC, and WIRAB assessments from load-serving entities and designees (or such other entities as agreed by NERC and ~~[Regional Entity]~~). ~~[Regional Entity]WECC~~. WECC agrees that it shall (i) issue all invoices to ~~load serving entities and other entities~~ each load-serving entity or Balancing Authority (depending on the Balancing Authority's choice of Option 1 or 2 above) in a prompt and timely manner after receipt from NERC of the information needed to issue the invoices, but no later than November 15th of each year; (ii) exercise commercially reasonable efforts to collect invoices that are not paid as of the due date(s); and (iii) transfer all funds collected to NERC in a timely manner, as follows: ~~Prior to the start of each calendar quarter, and once~~ Once per week ~~thereafter~~ until all billings ~~for the quarter~~ are collected, ~~[Regional Entity]WECC~~ will electronically transfer to NERC, in immediately available funds, all payments received by ~~[Regional Entity]WECC~~ from load-serving entities or other entities for payment of the NERC, WECC, and WIRAB assessments billed on the annual invoices. In the event that (1) WECC includes Peak Reliability assessments (or assessments of a differently named company performing the same functions) on the annual invoices; (2) a payment received is less than the total amount billed for the NERC, WECC, WIRAB, and Peak Reliability assessments; and (3) WECC does not know and, after due inquiry with the entity submitting the underpayment and consultation with NERC, is unable to determine which invoiced item accounts for the shortfall, WECC shall be permitted to prorate the shortfall among all assessments received from that entity. On the same day that ~~[Regional Entity]WECC~~ makes each electronic transfer of funds to NERC, ~~[Regional Entity]WECC~~ shall send an

~~email-mail~~ to the Chief Financial Officer or Controller of NERC detailing the collections being transmitted, including a listing of the load-serving entities or other entities from which payments were collected and the amount collected from each entity. ~~[Note: If NERC and Regional Entity have a different collection and payment arrangement, the preceding two sentences will be modified accordingly to describe it.]~~ and the breakdown of the total payments collected among NERC statutory funding, WECC statutory funding, and WIRAB statutory funding.

~~[Regional Entity]~~WECC agrees that it shall not in any way use its position as billing and collection agent for NERC to attempt to influence NERC's policies or decisions on matters relating to adoption of Reliability Standards (including Regional Reliability Standards and Regional Variances), administration of the compliance monitoring and enforcement program and other compliance and enforcement matters, determination and imposition of penalties and sanctions, budgeting matters including review and approval of ~~[Regional Entity's]~~WECC's budgets and business plans, or any other NERC decisions, including by issuing invoices, engaging in collection activities or transferring funds collected to NERC in an untimely manner or other than in accordance with this Agreement. To the extent WECC uses another entity as collection agent, it will incorporate these safeguards in the arrangements with the collection agent.

Within three (3) business days following receipt of an electronic transfer of collected assessments from WECC in accordance with Section 4(a) of this Exhibit E, NERC will electronically transfer (i) to WECC, in immediately available funds, the portion of the payment received from WECC constituting WECC statutory funding, and (ii) to WIRAB, in immediately available funds, the portion of the payment received from WECC constituting WIRAB statutory funding.

(b) NERC shall pursue any non-payments of assessment amounts constituting NERC, WECC, and WIRAB statutory funding and shall request assistance from Applicable Governmental Authorities as necessary to secure collection. To the extent reasonably practicable, ~~[Regional Entity]~~WECC shall assist NERC in pursuing and collecting any non-payments. Notwithstanding the foregoing, ~~[Regional Entity]~~WECC is not responsible and does not assume any liability for recovering non-payments or underpayments of assessment amounts. NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts: constituting NERC, WECC, and WIRAB statutory funding. NERC shall add the amount of any non-payments by end-users or designees within ~~[REGIONAL ENTITY]'s~~WECC's region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within ~~[Regional Entity]'s~~WECC's region.

~~(c) — Upon approval by Applicable Governmental Authorities of [Regional Entity]'s annual assessment to fund the costs of its delegated functions and related activities, NERC shall pay [Regional Entity's] annual assessment to Regional Entity in four equal quarterly payments on January 15, April 15, July 15 and October 15 of the budget year.~~

5. Application of Penalties

Except as otherwise approved by the Commission, all penalty monies received by ~~{Regional Entity}, WECC~~, other than penalty monies received from an operational function or division or affiliated entity of ~~{Regional Entity}, WECC~~, shall be applied as a general offset to ~~{Regional Entity}'s WECC's~~ budget requirements for U.S.-related activities under this Agreement for ~~the~~ subsequent fiscal year. Funds from financial penalties shall not be directly applied to any program maintained by the investigating entity. Except as otherwise approved by the Commission, any penalty monies received from an operational function or division or affiliated entity of ~~{Regional Entity}, WECC~~ shall be transmitted to or retained by NERC and shall be used by NERC as a general offset to NERC's budget for its activities as the ERO under the Act for the following year.

6. Budget and Funding for ~~{Regional Entity}'s WECC's~~ Non-Statutory Activities

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as "statutory activities"), ~~{Regional Entity} WECC~~ performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"): ~~{List and describe all non-statutory activities performed by Regional Entity, or state "None."} Western Renewable Generation Information System ("WREGIS").~~

~~{Regional Entity} WECC~~ shall employ the following methods and procedures to (i) keep its funding mechanisms for its statutory activities separate from its funding mechanisms for its non-statutory activities, and (ii) record the costs it incurs in the performance of its non-statutory functions separately from the costs it incurs in the performance of its statutory functions: ~~{List and describe the methods and procedures Regional Entity employs to keep costs and funding of statutory activities separate from costs and funding of non-statutory activities, including at a minimum a description of how Regional Entity's bank accounts and receivables/payables procedures are set up for both statutory and non-statutory functions, a description of how Regional Entity ensures each employee involved in both statutory and non-statutory functions keeps accurate time records reflecting his/her activities, and a description of how Regional Entity's general and administrative costs are allocated between statutory activities and non-statutory activities. If the necessary descriptions are lengthy they may be provided in a separate attachment labeled "Attachment E-1", and state here "See Attachment E-1." If Regional Entity has listed no non-statutory functions in the preceding paragraph, state here "Not applicable."} WECC utilizes a fund accounting system with capabilities to segregate receipts and expenses based on function or activity. WECC has segregated non-statutory activities by assigning a separate fund code to those receipts and expenses. All expenditures or receipts that are entered into WECC's accounting system must include a fund code identifying whether the transaction is related to statutory or non-statutory activities.~~

General and administrative costs are allocated to non-statutory activities based on an FTE ratio that is consistent with NERC's accounting methodology for allocation of overhead to

statutory activities. For these reasons, time records are not necessary for WECC to properly allocate costs between statutory and non-statutory activities.

~~{Regional Entity}WECC~~ shall provide its budget for such non-statutory activities to NERC at the same time that ~~{Regional Entity}WECC~~ submits its proposed annual business plan and budget for statutory activities to NERC pursuant to Section 9 of the Agreement. ~~{Regional Entity's}WECC's~~ budget for non-statutory activities that is provided to NERC shall contain a detailed list of ~~{Regional Entity's}WECC's~~ non-statutory activities and a description of the funding sources for the non-statutory activities. ~~{Regional Entity}WECC~~ agrees that no costs (which shall include a reasonable allocation of ~~{Regional Entity's}WECC's~~ general and administrative costs) of non-statutory activities are to be included in the calculation of ~~{Regional Entity's}WECC's~~ assessments, dues, fees, and other charges for its statutory activities.

7. Amended or Supplemental Business Plans and Budgets

During the course of the fiscal year, if ~~{Regional Entity}WECC~~ determines it does not or will not have sufficient funds to carry out its delegated functions and related activities, ~~{Regional Entity}WECC~~ shall submit to NERC one or more proposed amended or supplemental business plans and budgets and requests for approval of supplemental assessments, reflecting costs, cost increases or funding shortfalls not provided for in ~~{Regional Entity's}WECC's~~ approved business plan and budget for the fiscal year. NERC shall review and approve the proposed amended or supplemental business plan and budget and proposed supplemental assessment, or shall direct ~~{Regional Entity}WECC~~ to make such revisions as NERC deems appropriate prior to approval. NERC shall submit ~~{Regional Entity's}WECC's~~ approved amended or supplemental business plan and budget and proposed supplemental assessment to the Commission for approval.

8. NERC Review of Regional Entity Financial Records

Upon a request made to ~~{Regional Entity}WECC~~ with reasonable notice, NERC shall have access to and may review all financial records of ~~{Regional Entity},WECC,~~ including records used to prepare ~~{Regional Entity's}WECC's~~ financial statements. NERC shall conduct reviews of the quarterly and annual financial statements submitted by ~~{Regional Entity}WECC~~ pursuant to Section 9(h) and (i) of the Agreement. ~~{Regional Entity}WECC~~ shall provide supporting documentation for the quarterly and annual financial statements as reasonably requested by NERC.

Attachment 11: Stakeholder Comments in Response to March 2015 Posting

via email to RDAComments@nerc.net

Comments of American Public Power Association and Transmission Access Policy Study Group on March 2, 2015 Posting of Draft Revised Delegation Agreement

APPA and TAPS appreciate the opportunity to comment on the draft revised delegation agreement. As described below, we are concerned that the draft revised delegation agreement enhances the role of the Regional Entities at the expense of NERC, thereby ceding NERC authority contrary to the contemplation of Section 215. These changes raise questions as to whether NERC will be in a position to ensure that its statutory and regulatory obligations as the FERC-certified Electric Reliability Organization are carried out by Regional Entities, much less in the consistent manner that the FERC expects. Specific examples of such degradation of NERC authority include:

- Increased Regional flexibility to amend bylaws: Pursuant to new Section 2(i), each RE would be free to amend its bylaws so long as it adheres to the statutory criteria listed in Exhibit B. Nor is there express provision for NERC BOT review and approval of revisions to the RE bylaws.
- Reduction in NERC's capability to oversee and drive consistency in enforcement: While some revisions are driven by the change from reported violations and penalties to reliance, to a significant degree, on compliance exceptions and FFTs, we are concerned that NERC is forfeiting the express rights it now has to review and reject an RE disposition of a confirmed violation based on specified criteria (*see* current Section 6(e)). Proposed Section 6(d) provides for submission of dispositions to NERC “for review,” and for NERC, in collaboration with the REs, to develop and implement policies and procedures for the review, and where appropriate, approval of dispositions. This new language not only omits NERC's right to reject an RE submission if it fails to meet specified criteria (which currently include consistency), but suggests that NERC approval may not even be “appropriate” in all cases.
- Dilution of NERC authority to ensure consistent and effective implementation of statutory authority: The proposed delegation agreement would eliminate a number of provisions that empower NERC to review Regional Entity programs and activities for their consistency and sufficiency to carry out the ERO's functions. For example, current Section 6(j) requires NERC to review each Region's compliance and enforcement program at least once every five years to ensure that all applicable requirements were met both as to the program and in practice, and “the program administered pursuant to the Delegated Authority promotes consistent interpretations across North America of Reliability Standards and comparable levels of sanctions and penalties for violations of

Reliability Standards constituting comparable levels of threat to reliability of the Bulk-Power System.” Section 8(f)’s existing provision for NERC audits of REs has been removed in favor of supplementing Section 8(e)’s provision for collaborative reviews. Section 12 of the existing delegation agreement allows renewal only after NERC conducts an audit of the RE to ensure the RE continues to meet all applicable and regulatory requirements necessary to maintain the delegation.; the proposed revised delegation agreement makes the delegation essentially perpetual, automatically renewing every five years unless one party provides a one-year notice of termination.

- Loss of clarity on NERC’s ultimate authority as ERO: In numerous instances where the existing delegation agreement empowers NERC to develop procedures and requirements to be used in performing delegated activities, the proposed delegation agreement provides for collaborations with the REs. For example, in Section 7(c), the proposed language would replace NERC development of data gathering requirements for reliability assessments and performance analyses, with revised language that leaves data gathering quality requirements to policies and procedures to be developed collaboratively. *See also, e.g.,* Section 6(c) (CMEP procedures and guidance); Section 6(d) (policies and procedures for review of dispositions); Section 7(d) (event analysis); and Section 7(f) (situational awareness). We recognize that collaboration can provide significant benefits, including serving as a practical means to achieve consistency and enhance performance. We note as well that NERC retains its Section 8(c) and (d) authority to issue directives, guidance, and directions to the REs. We are nonetheless concerned that the revised language creates doubts as to whether ultimate authority still resides with NERC on significant matters.

APPA and TAPS therefore encourage reconsideration of these proposed changes to ensure that the revised delegation agreement does not dilute or hamstring the ability of the ERO to carry out its statutory functions in an effective and consistent manner.

April 2, 2015

**Joint Comments of Avista Corporation and Portland General Electric Company
on Pro Forma Regional Delegation Agreement**

On March 2, 2015, the North American Electric Reliability Corporation (“NERC”) posted a revised Pro Forma Regional Delegation Agreement (“Draft Delegation Agreement”) for comment. Pursuant to the Notice of Draft Posting, comments are due on April 2, 2015. Avista Corporation and Portland General Electric Company (collectively “Commenting Parties”) respectfully submit these comments on the Draft Delegation Agreement. The Commenting Parties also support the comments submitted by the Edison Electric Institute.

Section 215 of the Federal Power Act (“Act”) authorizes the Federal Energy Regulatory Commission (“FERC”) to issue regulations authorizing NERC, as the ERO, “to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1). . . .”¹ Consistent with Section 215, FERC’s regulations authorize NERC to “enter into an agreement to delegate authority to a Regional Entity *for the purpose of proposing Reliability Standards to the Electric Reliability Organization and enforcing Reliability Standards under [18 C.F.R.] § 39.7.*”² Section 215 also requires NERC to “conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.”³ Section 215 does not authorize NERC to delegate this function to Regional Entities.⁴

The Draft Delegation Agreement purports to both delegate authority to Regional Entities pursuant to section 215(e)(4) of the Act and effectively subcontract with entities that are Regional Entities to perform certain other activities. Specifically, Section 4 of the Draft Delegation Agreement delegates to Regional Entities authority, pursuant to section 215(e)(4) of the Act, to propose and enforce Reliability Standards as set forth in Sections 5 and 6 of the Draft Delegation Agreement. The Draft Delegation Agreement further proposes, in Section 7, to engage entities that are Regional Entities on NERC’s behalf “to carry out certain of its activities that are in furtherance of Bulk-Power System reliability and NERC’s responsibilities as the ERO under the Act or in support of the Delegated Authority, as specified in the NERC Rules of Procedure and listed on Exhibit E” (referred to herein as “Section 7 Activities”). In addition to reliability assessment and performance analysis, which appears to cover the activities authorized in section 215(g), Section 7 Activities include, among other things, (i) event analysis and reliability improvement, (ii) situational awareness, and (iii) critical infrastructure security.

FERC has stated that “[a]ny funding that is approved and provided by the ERO to a Regional Entity *would be limited to a Regional Entity’s costs related to the delegated functions*”⁵ —i.e., “proposing reliability standards to the ERO and enforcing reliability standards under

¹ 16 U.S.C. § 824o(e)(4).

² 18 C.F.R. § 39.8 (emphasis added).

³ 16 U.S.C. § 824o(g).

⁴ See 16 U.S.C. § 824o(e)(4); see also 16 U.S.C. § 824o(a)(7) (defining “regional entity”); 18 C.F.R. § 39.1 (same).

⁵ Order No. 672 at P 229 (emphasis added); Order No. 672-A at P 61.

paragraph (1). . . .”⁶ However, both the activities delegated under sections 4, 5, and 6 of the Draft Delegation Agreement and the Section 7 Activities are, according to the Draft Delegation Agreement, to be funded through statutory Section 215 funding.⁷ The Section 7 Activities include very broad categories of activities that are themselves beyond the scope of the activities authorized to be funded under Section 215 and/or are susceptible to interpretation by entities that are Regional Entities to authorize Section 215 funding for activities that are beyond the scope of Section 215.⁸ To the extent that the Draft Delegation Agreement does purport to engage entities that are Regional Entities to perform Section 7 Activities, those activities should, at a minimum, clearly define the activities to be performed by such entities. The broad grants of authority to, for example, perform “situational awareness” provide virtually no sideboards on the scope of activities to be performed as Section 7 Activities.

Assuming, without conceding, that the Section 7 Activities are Section 215 activities, such activities can only be Section 215 activities if they are within the scope of activities reserved to the ERO (NERC) under section 215(g).⁹ As noted above, the requirement that NERC conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America is not delegable to Regional Entities and, therefore, when an entity that is a Regional Entity performs that activity it is not acting as a Regional Entity or as NERC; rather, such entity is acting effectively as a subcontractor for NERC.¹⁰ As subcontractors for NERC, the entities are neither NERC nor a Regional Entity and, therefore, such entities cannot use any authority reserved to NERC and/or Regional Entities¹¹ in furtherance of their performance of those activities.

Finally, as a condition of receiving statutory funding under Section 215 of the Act, the Delegation Agreement should, at a minimum, require NERC and Regional Entities to clearly articulate the activities to be performed as Section 215 activities and as Section 7 Activities and provide details regarding the costs allocated to each such activity. Section 7 of the Draft Delegation Agreement states: “NERC may from time to time develop policies or procedures in collaboration with [Regional Entity] and the other Regional Entities, which shall be used by [Regional Entity] in the performance of the delegation-related activities.” To the extent that NERC and Regional Entities develop policies or procedures, NERC and Regional Entities should provide notice to entities that fund NERC and such Regional Entities of any proposed policies or procedures and provide an opportunity for such entities to meaningfully comment on such

⁶ 16 U.S.C. § 824o(e)(4).

⁷ See Draft Delegation Agreement at Section 9, Exhibit E.

⁸ *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards*, 114 FERC ¶ 61,104, P 202 (2006) (“Order No. 672”) (stating: We find that section 215 of the FPA provides for federal authorization of funding limited to the development of Reliability Standards and their enforcement, and monitoring the reliability of the Bulk-Power System. However, the ERO or a Regional Entity is not precluded from pursuing other activities, funded from other sources.”), *order on reh’g*, 114 FERC ¶ 61,328, P 61 (2006) (“Order No. 672-A”) (same).

⁹ See 16 U.S.C. § 824o(g).

¹⁰ See Order No. 672 at P 229 (stating: “Any funding that is approved and provided by the ERO to a Regional Entity would be limited to a Regional Entity’s costs related to the delegated functions.”).

¹¹ See, e.g., Rules of Procedure of North American Electric Reliability Corporation, Section 1601 (stating: “NERC and Regional Entities may request data or information that is necessary to meet their obligations under Section 215 of the Federal Power Act, as authorized by Section 39.2(d) of the Commission’s regulations, 18 C.F.R. § 39.2(d).”).

proposed policies or procedures. Such transparency is necessary (i) to ensure that activities that are funded under Section 215 are within the scope of Section 215, (ii) to ensure that costs are properly allocated between Section 215 activities and non-statutory functions, and (iii) to ensure that funding levels are reasonable.

The Commenting Parties appreciate the opportunity to submit these comments on the Draft Delegation Agreements.

RENEGOTIATION OF REGIONAL DELEGATION AGREEMENTS

COMMENTS OF THE EDISON ELECTRIC INSTITUTE

On behalf of our member companies, the Edison Electric Institute (EEI) is pleased to provide these comments on the posting of the proposed revisions to the Pro Forma Regional Delegation Agreement (RDA). The experience gained since the original RDAs were developed in 2007 and since the initial revisions were adopted in 2010 informs EEI's comments. EEI is concerned that collectively, the proposed revisions upset the current balance between the authorities and responsibilities of NERC and the Regional Entities, may diminish the oversight tools that NERC has to ensure consistency among the Regional Entities, and lack transparency to Registered Entities and other stakeholders as to the actions that NERC and the Regional Entities take under the RDA.

The RDA Should Clearly Distinguish Between Delegated Authorities and Reliability-Related Activities

Section 215 of the Federal Power Act and FERC orders implementing the statute make clear that the only Section 215 authorities that are delegable by NERC to the Regional Entities are (i) proposing reliability standards to the ERO, and (ii) enforcing reliability standards. Section 215 further requires the ERO to conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America, but this activity is expressly not delegable to Regional Entities.

Since the original RDAs were developed, there has been a blurring of authorities that are properly delegated by NERC as the ERO to the Regional Entities under Section 215 and additional reliability-related activities that NERC and the Regional Entities have agreed to undertake. The proposed revisions to the RDA continue to exacerbate this blurring between the two statutory delegable authorities and the other activities that NERC and the Regional Entities have agreed to undertake pursuant to the RDA. The proposed revisions also grant too much authority to NERC and the Regional Entities to expand the range and types of these activities and to do so without needed transparency to Registered Entities and other stakeholders.

EEI's concerns center on Section 7 – "Delegation-Related Activities." EEI believes that the section heading itself contributes to the blurring between delegated authorities and the other reliability-related activities that NERC purports to engage Regional Entities to perform as Section 215 funded activities under the RDA. In Order No. 672, the order setting forth the rules for certification of the ERO and establishing the framework for the delegation of authority to

the Regional Entities, the Commission described these additional activities as “other reliability-related functions in service to its region.” Order No. 672 at P 656. EEI believes that the current designation of Section 7 as “Delegation-Related Activities” gives an unwarranted imprimatur or presumption of approval to these other reliability-related functions. A more critical examination of whether these activities are actually Section 215 activities should be performed.

To avoid confusion, Section 7 should be renamed “Reliability-Related Activities.” Also, the entire agreement should be renamed to make clear that it covers matters other than delegated authorities, perhaps “Regional Delegation and Reliability-Related Activities Agreement,” or otherwise made clear in a “whereas” clause that the agreement covers delegated authorities and reliability-related functions that NERC has contracted with the Regional Entities to undertake.

These problems are compounded with respect to the two interconnection-wide Regional Entities because section 215(e)(4) provides that “the ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis promotes effective and efficient administration of the bulk-power system and should be approved.” Thus, to the extent that there is any confusion between the two delegable authorities – proposing standards and enforcing standards – and other duties performed by an entity that is an Interconnection-wide Regional Entity, these other duties may be improperly shielded from appropriate scrutiny.

Finally, the RDA should more clearly define any reliability-related functions that NERC purports to engage entities that are Regional Entities to perform. The broad categories provided in Section 7 of the RDA, such as event analysis and reliability improvement, training and education, situational awareness, and critical infrastructure security, do not include sufficient definition to ensure that entities that are engaged to perform these activities do not unilaterally expand the scope of these functions. This is particularly important to the extent that any of the reliability-related functions are determined to be eligible for funding under Section 215. Without adequate definition of the activities to be performed, entities engaged to perform these activities that are also Regional Entities may interpret the RDA to authorize Section 215 funding for activities that are beyond the scope of Section 215.

The RDA Grants Broad Authority to NERC and the Regional Entities to Expand Activities without Accountability or Transparency to Stakeholders

EEI is also troubled by the proposed inclusion of the following provision in Section 7 : *“NERC may from time to time develop policies or procedures in collaboration with [REGIONAL ENTITY] and the other Regional Entities, which shall be used by [REGIONAL ENTITY] in the performance of delegation-related activities.”*

This provision would give NERC and the Regional Entities broad authority to expand the scope of “Delegation Related Activities” without accountability to or transparency to stakeholders. In effect, this provision would allow NERC and the Regional Entities to create other activities without seeking any input or approval from or even notice to stakeholders. This provision enables what stakeholders have come to describe as “scope creep” – the expansion of NERC and Regional Entity activities beyond delegated authorities and those activities that are reasonably related to assuring reliability. This provision must be deleted from the RDA. If NERC determines to keep it in the RDA, the RDA must impose requirements on NERC and the Regional Entities to provide notice to and seek comment from stakeholders. These requirements must also be included in the Rules of Procedure (ROP) and provide a role for stakeholders. In addition, the RDA should be revised to provide that, if NERC and the Regional Entity cannot reach agreement on such policies or procedures, the Regional Entity shall follow NERC policies and procedures. As written, a Regional Entity (or Entities) can exercise a veto on any policy and thus could weaken the role of NERC as the ERO in providing oversight over the activities of Regional Entities.

The problem is made worse when the proposed new language is read in conjunction with the existing provision in Section 7: *“These delegation-related activities shall include, but are not limited to, those described in subsections (a) through (g), each of which shall be considered a statutory activity.”* This provision in effect grants approval for section 215 funding to these activities by being deemed statutory activities. The result of the two provisions is that NERC and the Regional Entities can develop “policies or procedures” that lead to the development of new activities that are deemed statutory, all without the requirement of notice to and assent by stakeholders. The language “but are not limited to” must be struck from the RDA to put appropriate limits on ability of NERC and the Regional Entities to expand the scope of section 215-funded activities.

The RDA Would Weaken NERC’s Role in Oversight of Regional Compliance and Enforcement Programs

In the recent Order on Notice of Penalty issued in Docket No. NP15-1-000, the Commission stated that “NERC, as the ERO, is responsible to ensure consistent compliance outcomes and consistent interpretation of the Reliability Standards.” 150 FERC ¶61,212 at P 74 (2015). NERC must ensure that the RDA cannot be used as a vehicle for undermining this obligation.

The proposed changes to Section 6 remove certain tools that may weaken the role of NERC in conducting oversight of Regional Entity compliance and enforcement programs. For example, the deletion of existing Section 6(c) would eliminate the requirement for Regional Entities to report to NERC Possible, Alleged and Confirmed Violations as well as their disposition. We recognize that revised Sections 6(c) and (d) provide for reporting of information regarding

instances of noncompliance and their disposition. However, Section 6(d) also includes a provision allowing NERC, in collaboration with the Regional Entities, to develop and implement policies and procedures for review and “*where appropriate*” approval of dispositions of noncompliance.

EEl is concerned that this is another instance where the RDA and the obligations under it may be changed by policies that are developed without notice to stakeholders that could have the effect of altering the oversight responsibilities of the ERO. EEl requests that NERC clarify its plans for oversight of Regional Entity compliance and enforcement activities, including the ability to review dispositions of noncompliance, and to revise the draft RDA accordingly. The proposed deletion of existing Section 6(j) would also eliminate the obligation of NERC to review Regional Entity compliance and enforcement programs, thus eliminating another tool to ensure consistency. Moreover, under revised Section 12, the RDA will automatically extend for another five year term, thus further weakening NERC’s oversight responsibilities.

EEl requests that NERC clarify the intent of proposed 6(f), which provides that Regional Entities can conduct compliance monitoring outside their Exhibit A borders for conflict of interest purposes, pursuant to a contract approved by both NERC and FERC. Is this provision intended to apply prospectively only? Or, does it impact existing informal dual monitoring protocols? In addition, as written, it does not guarantee that an affected Registered Entity be consulted or have the ability to review the contract before it is filed at FERC for approval.

The NERC notice accompanying the posting of the proposed revisions to the RDA also states that the proposed revisions update current practices relating to the creation of Multi-Regional Registered Entities (MRREs). EEl asks NERC to identify which provisions concern the MRRE program. Existing Section 4(d) provides that nothing prohibits an arrangement between one or more Regional Entities to perform compliance monitoring activities outside its region for Registered Entities that have registered functions in more than one region. However, this section already exists in the RDA. What are the proposed revisions relating to the MRRE? EEl also requests that the RDA make implementation of the MRRE program mandatory, and not at the option of the Regional Entity. The MRRE program is an important reform of the ERO’s compliance and enforcement program and it should be implemented when requested by a Registered Entity.

The Confidentiality Provisions are Insufficient

EEl has a number of concerns about the scope and impact of the revisions to Section 15, particularly as they relate to confidential information of a Registered Entity. EEl asks NERC to

clarify whether any information obtained by NERC or a Regional Entity from a Registered Entity is intended to be covered under Section 15 or if it covers only information created by NERC or a Regional Entity. If information that originates with a Registered Entity is included, the confidentiality protections must be strengthened and there must be provision for notice to the affected Registered Entity. For example, in (a), the RDA states that the “Parties agree that their mutual objective under this provision is to provide appropriate protection for Confidential Information...” EEI submits that there is a difference between NERC and the Regional Entities agreeing that confidential treatment is their “mutual objective” versus actually protecting Confidential Information.

EEI also asks NERC to clarify the definition of “Confidential Information” under the RDA and how that relates to the definition and obligations under Section 1500 of the NERC Rules of Procedure. EEI also has concerns about the references to third party beneficiaries and questions whether this makes the actual protection of Confidential Information too unwieldy. To the extent that any of the Confidential Information under the RDA originates with a Registered Entity, the Registered Entity must also be considered a third party beneficiary and must be given notice of its treatment under the RDA.

EEI is also concerned that there appears to be no remedies or penalties in the event of breach of this provision.

The RDA appears to contemplate unlimited sharing of Confidential Information between the Parties, with the only protection being that the “Parties continue to maintain the confidentiality of such information.” There is no requirement that any sharing be documented or that the actual protection of the Confidential Information by the Parties be subject to oversight or audit. To the extent that any Confidential Information is that of Registered Entity, there should also be notice to the Registered Entity that its information has been shared. Sharing of any such information should only be allowed subject to a separate Non-Disclosure Agreement covering all of the entities involved.

In addition, there should be a prohibition on any Confidential Information provided by a Registered Entity in non-compliance or non-enforcement context from being shared with NERC or a Regional Entity and being used as a basis for compliance or enforcement actions.



**CITY OF FARMINGTON, NEW MEXICO
ELECTRIC ADMINISTRATION**

101 N Browning Parkway
Farmington, NM
87401

Date: April 2, 2015

Subject: Renegotiation of Regional Delegation Agreements

FEUS appreciates the opportunity to comment on the proposed revised Regional Delegation Agreements (RDA). Generally, FEUS agrees with the agreement as amended and posted. However, we identified three areas that NERC should consider clarification or revisions. Please consider the following comments:

FEUS supports the new risk based reliability initiatives being implemented by NERC and the Regions including RAI. One of the components of RAI is the introduction of compliance exceptions and ability for entities to 'self-log' where a review of internal controls has been conducted. We believe the implementation of RAI and self-logging will help reduce administrative burden on both Regional Entities and Registered Entities. Section 6 of the RDA requires promptly reporting noncompliance of Reliability Standards in accordance with the NERC Rules of Procedure (ROP) and Compliance Monitoring and Enforcement Program (CMEP). In review of the RDA, we recommend NERC ensure the RDA, ROP, and CMEP are not in conflict with RAI rather are cohesive and complimentary and allow for the Regions and NERC to successfully implement RAI.

Additionally, FEUS agrees the majority of the delegation-related activities are necessary in order for Regional Entities and NERC to meet their functional obligations. The RDA Section 7 specifically states "delegation-related activities include, but are not limited to, those described in subsections (a) through (f), each of which shall be considered a statutory activity." However, some of the activities, as outlined in subsections (a) through (f), can be broadly applied to

include activities that should not be funded using FPA Section 215 funding. For example, reliability assessments and performance analysis as well as situation awareness information certainly may be eligible for statutory funding. However, this may not always be the case depending on the application and justification for the specific activity. Additionally, where some activities are being performed by organizations there shouldn't be unnecessary duplication of efforts; this is not efficient or cost effective. FEUS recommends NERC remove the language explicitly permitting activities associated with the RDA to be funded using FDA Section 215. Additionally, Regional Entities should consider if their activities would be duplicative prior to taking on new roles or tasks. For example, transmission planning activities required for FERC Order No. 1000 are being conducted by regional planning groups and should not be unnecessarily duplicated.

Finally, Section 8 provides for oversight of the performance of delegated functions and related activities outlined in the RDA. NERC should ensure the performance goals, performance reports, and measures for performance provide for an appropriate and adequate level of input from their respective members. Additionally, the performance reports, including any action plans, should be published and transparent to industry.

Respectfully;



Digitally signed by Linda Jacobson-Quinn
DN: cn=Linda Jacobson-Quinn,
o=FEUS, ou=Compliance,
email=ljacobson@fmtn.org, c=US
Date: 2015.04.02 07:09:34 -06'00'

Linda Jacobson-Quinn
Regulatory Compliance Manager
Farmington Electric Utility System

CC: Michael Sims, Electric Utility Director

Comments to Revised Pro Forma Regional Delegation Agreement

April 2, 2015

The Public Utility District No. 1 of Snohomish County, Washington (“Snohomish”), submits these comments in response to the March 2, 2015, posting announcement of proposed revisions to the pro forma Regional Delegation Agreement (“RDA”). Snohomish requests that the North American Electric Reliability Corporation (“NERC”) further define the scope of the activities a regional entity is authorized to perform under the RDA.

The Federal Power Act (“FPA”) and regulations of the Federal Energy Regulatory Commission (“FERC”) allow NERC to enter into a delegation agreement with a Regional Entity (“RE”) for the purpose of proposing reliability standards to NERC and enforcing reliability standards.¹ Sections 5, 6, and 7 of the RDA lists the activities delegated to an RE. Snohomish believes limitations are necessary to remove any confusion and preempt any differences of opinion as to what activities fall under the scope of the RDA and in particular, warrant FPA Section 215 funding.

Among the entities and groups in the Western Electricity Coordinating Council (“WECC”) footprint, some have suggested that WECC take a larger role in the development of energy markets in the West. Others have suggested that WECC undertake the transmission planning obligations under Order No. 1000, which are currently performed by regional planning entities, such as ColumbiaGrid. Snohomish is not suggesting that WECC or any other RE should not take on these additional activities. To the contrary, REs may be well positioned to perform these activities. However, Snohomish believes that activities such as cost production studies, and transmission expansion assessments are being performed by electric utilities and other organizations and are beyond the scope of the reliability-related activities NERC delegates to REs and thus would require a separate funding mechanism than under FPA Section 215.

Therefore, Snohomish requests that NERC include language in the pro forma RDA that explicitly prohibits REs from using the RDA to engage in activities that are not related to reliability. NERC, REs and their Registered Entities may further refine this language in individual RE RDAs to address concerns specific to that region.

¹ 16 U.S.C. 824o(e)(4); 18 C.F.R. Part 39.



April 2, 2015

To: RDAComments@nerc.net
SGoodwill@wecc.biz

Tri-State Generation and Transmission Association, Inc. appreciates having the opportunity to provide comments on the Delegation Agreement and related Exhibits and also on the WECC Hearing Body Charter.

Pro-forma Delegation Agreement

1. **Section 2(a)(ii)**

As set forth in **Exhibit D** hereto, WECC [REGIONAL ENTITY] has adopted the NERC Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, which provides for the enforcement of Reliability Standards within [REGIONAL ENTITY]'s geographic boundaries as shown on **Exhibit A**.

Comment: Exhibit A defines the geographical boundaries of WECC to be all of British Columbia and all of Alberta and Baja Mexico; yet WECC does not enforce all the Reliability Standards within those geographical boundaries - only some of the ones adopted by the appropriate international regulators. Should this be revised to incorporate some of the language in Section 4(d)?

2. **Section 7(e)**

[REGIONAL ENTITY] may provide training and education to Registered Entities, as it deems necessary, in support of its performance of delegated functions and related activities under this Agreement. NERC may also provide training and education programs to Registered Entities on topics relating to NERC's responsibilities as the ERO.

Comment: In light of WECC having added in Section 1 of Exhibit E "This category includes WECC's Training Programs", WECC should note the word "may" especially in light that it is no longer responsible for the operation of the Bulk Electric System because that responsibility has been passed to Peak Reliability. WECC should limit its training to standards and compliance.

3. **Section 15(d) – Confidentiality**

Except as set forth herein **and within the NERC Rules of Procedure**, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the issuing Party **or specified third party beneficiary of this Agreement**, unless...

Comment:

Please clarify within the document the definition of "specified third party beneficiary of this Agreement". The words are used multiple times within this section and the entities



providing information to their Regional Entity (RE) must be able to clearly understand what this document means and what the obligation are of the RE.

Exhibits

4. **Exhibit D – Compliance Monitoring and Enforcement Program**

Under the Compliance Hearing Body Charter, the Compliance Hearing Body consists of Class A and Class B members. Class A members are WECC independent directors, personnel employed by WECC Members who are not engaged in the Electric Line of Business, and consultants who meet the same standards of independence required by the WECC Bylaws for independent directors. Class B members are personnel employed by WECC Members engaged in the Electric Line of Business or who are otherwise affiliated with such Members. For each hearing, the Chair of the Compliance Hearing Body selects a five-member Hearing Panel (or a three-member Hearing Panel if the parties to the hearing agree) with a majority consisting of Class A members, with at least two members (one member of a three-member Hearing Panel) having technical knowledge of electric industry systems.

Comment:

Understanding there is an appeal process, I do not understand why WECC would want the majority of the Compliance Hearing Panel to NOT have technical knowledge of the electric industry systems. These are very serious hearings with many possible consequences to the company and to the employees within that company. It is imperative that the Hearing Panel have the requisite expertise to arrive at sound conclusions. Recommendation would be to reverse – five (5) member body would have a minimum of three (3) with technical knowledge of electric industry systems and a three (3) member body would have two (2) with technical knowledge of electric industry systems.

5. **Exhibit E – Funding, Section 1**

Reliability Assessment and Performance Analysis (including necessary data gathering activities)
This category includes WECC's Transmission Expansion Planning Program, Loads and Resources Activities, and all necessary supporting activities.

Comment: RAPA should not include the Transmission Expansion Planning Program; WECC does planning studies which are sufficient to provide the base case studies that the Regional Planning Groups use to do the work required under FERC's Order 1000. It is understandable that WECC would need Loads and Resources to do the base case planning studies. For WECC to include Transmission Expansion Planning is a duplication of work, effort and costs to the membership and stakeholders. If WECC is determined to continue to do this work in the present manner, it should become a non-statutory funded function.

Additionally, the "and all necessary supporting activities" is much too vague and could be limitless. This language should be deleted.

6. **Exhibit E – Funding, Section 4**

NERC shall retain sole responsibility for recovering non-payments or underpayments of assessment amounts constituting NERC, WECC, and WIRAB statutory funding. NERC shall add the amount of any non-payments by end-users or designees within [REGIONAL ENTITY]WECC's region, that are reasonably determined to be uncollectible, to NERC's assessments for a subsequent year with the amount of such non-payments to be allocated to end-users within [Regional Entity]WECC's region.

Comment:



What would happen if a multitude of large “end-users” (end users seems to be more the customers on the distribution system) did not pay? Would smaller entities be then burdened with the payment which they may not be able to afford?

7. Exhibit E – Funding, Section 6

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this **Exhibit E** (such delegated functions and activities referred to in this Section 6 as “statutory activities”), [Regional Entity]WECC performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"): [List and describe all non-statutory activities performed by Regional Entity, or state “None”.]Western Renewable Generation Information System (“WREGIS”).

Comment: Transmission Expansion Planning should be added to WREGIS in the Non-Statutory Activities performed by WECC.

Hearing Body Charter

8. Hearing Body Charter – Composition and Governance

Comment:

Recommend the charter be changed to modify the composition of the Hearing Panel as stated in 4 above.

9. Hearing Body Charter – Leadership

The Chair and Vice Chair of the Hearing Body will be appointed by the WECC Board Chair and shall be members of the Board of Directors.

Comment:

If it is a three (3) member Hearing Body, two (2) will be Board Members; it seems that might preclude having knowledge of the electric utility systems.

10. Hearing Body Charter – Reporting

The Hearing Officer of the Hearing Body shall regularly report to the WECC Board of Directors concerning the specific activities of active panels of the Hearing Body.

Comment:

Should the words “in closed session” be inserted between “WECC Board of Directors” and “concerning”?

cc: Joel K. Bladow, Senior Vice President - Transmission

Attachment 12: History of RDA-related Petitions Approved

After the Commission's October 7, 2011 Order

History of RDA-related Petitions Approved After the Commission's October 7, 2011 Order

FRCC:

On February 22, 2012, changes to: (i) the FRCC Bylaws, as an attachment to **Exhibit B** – Governance; and (ii) minor language related to directors in **Exhibit D** – Compliance Monitoring and Enforcement Program, were proposed and approved by FERC. *See North American Electric Reliability Corporation*, Docket No. RR12-4-000 (Jun. 12, 2012) (unpublished delegated letter order).

On November 19, 2014, changes to the FRCC Bylaws, as an attachment to **Exhibit B** – Governance, were proposed and approved by FERC. *See North American Electric Reliability Corporation*, Docket No. RR15-3-000 (Jan. 13, 2015) (unpublished delegated letter order).

MRO:

On May 17, 2012, changes to the MRO Bylaws, as an attachment to **Exhibit B** – Governance, were proposed and approved by FERC. *See North American Electric Reliability Corporation*, Docket No. RR12-9-000 (Jun. 25, 2012) (unpublished delegated letter order).

On April 26, 2013, changes to the MRO Regional Reliability Standards Process Manual, as an attachment to **Exhibit C** – Regional Standard Development Procedure, were proposed and approved by FERC. *See North American Electric Reliability Corporation*, Docket No. RR13-5-000 (Jun. 12, 2013) (unpublished delegated letter order).

NPCC:

On May 25, 2011, changes to: (i) the NPCC Bylaws, as an attachment to **Exhibit B** – Governance; (ii) the NPCC Regional Reliability Standards Development Procedure, as an attachment to **Exhibit C** – Regional Standard Development Procedure; and (iii) minor language related to the hearing body in **Exhibit D** – Compliance Monitoring and Enforcement Program, were proposed and approved by FERC. *See North American Electric Reliability Corporation*, Docket No. RR11-3-000 (Oct. 17, 2011) (unpublished delegated letter order).

Furthermore on May 25, 2011, changes to: (i) the **main body** -a new Section 6(j) related to CMEP activities; and (ii) corresponding language in **Exhibit A** – Geographic Area, were proposed and approved by FERC. *See North American Electric Reliability Corporation*, Docket No. RR11-2-000 (Nov. 15, 2011) (unpublished delegated letter order). These changes resulted in the NPCC RDA to become effective January 1, 2012 and re-executed by NERC and NPCC.

On September 15, 2014, changes to the NPCC Regional Standard Processes Manual, as an attachment to **Exhibit C** – Regional Standard Development Procedure, were proposed and approved by FERC. *See North American Electric Reliability Corporation*, Docket No. RR14-7-000 (Dec. 23, 2014) (unpublished delegated letter order).

ReliabilityFirst:

On July 30, 2012, changes to: (i) the ReliabilityFirst Bylaws, as an attachment to **Exhibit B** – Governance; and (ii) the RF Reliability Standards Development Procedure, as an attachment to **Exhibit C** – Regional Standard Development Procedure, were proposed and approved by FERC. *See North American Electric Reliability Corporation*, Docket No. RR12-12-000 (Oct. 24, 2012) (unpublished delegated letter order).

On December 28, 2012, changes to the ReliabilityFirst Bylaws, as an attachment to **Exhibit B** – Governance, were proposed and approved by FERC. *See North American Electric Reliability Corporation*, Docket No. RR13-1-000 (Mar. 8, 2013) (unpublished delegated letter order).

SERC:

On March 15, 2012, changes to: (i) the SERC Bylaws, as an attachment to **Exhibit B** – Governance; (ii) minor language related to step numbering in the Common Attributes of **Exhibit C** – Regional Standard Development Procedure; and (iii) the SERC Regional Reliability Standard Development Procedure, as an attachment to **Exhibit C** – Regional Standard Development Procedure, were proposed and approved by FERC. *See North American Electric Reliability Corporation*, Docket No. RR12-5-000 (Jun. 12, 2012) (unpublished delegated letter order).

On June 6, 2014, changes to the SERC Bylaws, as an attachment to **Exhibit B** – Governance, were proposed and approved by FERC. *See North American Electric Reliability Corporation*, Docket No. RR14-3-000 (Jul. 29, 2014) (unpublished delegated letter order).

SPP RE:

On August 9, 2013, changes to the SPP Bylaws, as an attachment to **Exhibit B** – Governance, were proposed and approved by FERC. *See North American Electric Reliability Corporation*, Docket No. RR13-8-000 (Sep. 24, 2013) (unpublished delegated letter order). *Also see* the tariff amendments to the SPP Bylaws filed at FERC by SPP in Docket Nos. ER13-1769-000 and ER13-2031-000.

On December 20, 2013, changes to the SPP RE Regional Reliability Standards Development Process Manual, as an attachment to **Exhibit C** – Regional Standard Development Procedure, were proposed and approved by FERC. *See North American Electric Reliability Corporation*, Docket No. RR14-1-000 (Jan. 31, 2014) (unpublished delegated letter order).

On January 23, 2015, changes to the SPP Bylaws, as an attachment to **Exhibit B** – Governance, were proposed and approved by FERC. *See North American Electric Reliability Corporation*, Docket No. RR15-5-000 (Mar. 31, 2015) (unpublished delegated letter order).

Texas RE:

On April 9, 2013, changes to the Texas RE Bylaws, as an attachment to **Exhibit B** – Governance, were proposed and approved by FERC. *See North American Electric Reliability Corporation*, Docket No. RR13-4-000 (Jun. 12, 2013) (unpublished delegated letter order).

On July 17, 2013, amendments to Sections 1.0, 2.0, and 3.0 related to hearing procedures in **Exhibit D** – Compliance Monitoring and Enforcement Program, were proposed and approved by FERC. *See North American Electric Reliability Corporation*, Docket No. RR13-7-000 (Aug. 19, 2013) (unpublished delegated letter order).

On February 27, 2015, changes to the Texas RE Bylaws, as an attachment to **Exhibit B** – Governance, were proposed and approved by FERC. *See North American Electric Reliability Corporation*, Docket No. RR15-7-000 (May 5, 2015) (unpublished delegated letter order).

WECC:

See NPCC above: On May 25, 2011, changes to **Exhibit A** – Regional Boundaries were proposed and approved by FERC. *See North American Electric Reliability Corporation*, Docket No. RR11-2-000 (Nov. 15, 2011) (unpublished delegated letter order).

On November 22, 2011, changes to: (i) the WECC Bylaws, as an attachment to **Exhibit B** – Governance; (ii) language in the Common Attributes of **Exhibit C** – Regional Standard Development Procedure; and (iii) the WECC Reliability Standards Development Procedures, as an attachment to **Exhibit C**, were proposed and approved by FERC. *See North American Electric Reliability Corporation*, Docket No. RR12-2-000 (Mar. 1, 2012) (unpublished delegated letter order).

On August 26, 2013, changes related to an independent WECC Reliability Coordinator to: (i) the **main body** -Sections 2, 4, and 19; (ii) eliminating language referencing NPCC performing CMEP functions in **Exhibit A** – Regional Boundaries; (iii) the WECC Bylaws, as an attachment to **Exhibit B** – Governance; and (iv) Sections 1 and 4 of **Exhibit E** – Funding, were proposed and substantially approved by FERC on December 6, 2013. *See Order on Rehearing, Independent Reliability Coordinator for Western Interconnection Filings, and Directing Compliance Filings*, 145 FERC ¶ 61,202 (2013).

On December 20, 2013, language was restored to Section 1 of **Exhibit E** – Funding, in a compliance filing and approved by FERC on February 12, 2014. *See Order on Compliance*, 146 FERC ¶ 61,092 (2014). The amended WECC RDA was re-executed by NERC and WECC in February 2014.

On September 16, 2014 as amended on November 21, 2014, changes to: (i) the WECC Bylaws, as an attachment to **Exhibit B** – Governance; (ii) language in the Common Attributes of **Exhibit C** – Regional Standard Development Procedure; and (iii) the WECC Reliability Standards Development Procedures, as an attachment to **Exhibit C**, were proposed and approved by FERC. *See North American Electric Reliability Corporation*, Docket No. RR14-8-000 (Dec. 23, 2014) (unpublished delegated letter order).