

May 18, 2021

VIA ELECTRONIC FILING

Kathleen Mitchell, Chief Clerk
New Brunswick Energy and Utilities Board
P.O. Box 5001
15 Market Square, Suite 1400
Saint John, NB
E2L 4Y9

RE: *North American Electric Reliability Corporation*

Dear Ms. Mitchell:

The North American Electric Reliability Corporation (“NERC”) hereby submits Notice of Filing of the North American Electric Reliability Corporation on the Revised Delegation Agreements with Regional Entities. NERC requests, to the extent necessary, a waiver of any applicable filing requirements with respect to this filing.

Please contact the undersigned if you have any questions concerning this filing.

Sincerely,

/s/ Alain Rigaud

Alain Rigaud
*Associate Counsel for the North American
Electric Reliability Corporation*

1325 G Street NW Suite 600
Washington, DC 20005
202-400-3000 | www.nerc.com

**BEFORE THE
MINISTRY OF ENERGY
OF THE PROVINCE OF NEW BRUNSWICK**

**NORTH AMERICAN ELECTRIC)
RELIABILITY CORPORATION)**

**NOTICE OF FILING OF THE NORTH AMERICAN ELECTRIC RELIABILITY
CORPORATION ON THE REVISED DELEGATION AGREEMENTS WITH
REGIONAL ENTITIES**

The North American Electric Reliability Corporation (“NERC”) hereby submits this filing of (i) a revised *pro forma* Regional Delegation Agreement (“RDA”) and (ii) revised individual RDAs between NERC and each of the three relevant Regional Entities (the *pro forma* RDA and the individual RDAs are collectively referred to as the “Revised RDAs”).¹ In a December 30, 2020 Order conditionally approving the Revised RDAs, the Federal Energy Regulatory Commission (“FERC”) directed NERC to modify certain terms in the Revised RDAs and to submit a compliance filing to address these modifications within 120 days of the date of the December 30 Order. (“December 30 Order”)² Specifically, FERC directed NERC to do the following:

- (1) Apply the proposed revision of replacing the term “identified” with “described” consistently throughout the Revised RDAs when referencing the geographic boundaries of the Regions in Exhibit A;³

¹ NERC had submitted on July 22, 2020 *Notice of Filing of the North American Electric Reliability Corporation of the Revised Pro Forma Regional Delegation Agreement and the Revised Individual Regional Delegation Agreement*, (July 22, 2020).

² See *Order Conditionally Approving Revised Pro Forma Delegation Agreement and Revised Delegation Agreements with the Regional Entities*, 173 FERC ¶ 61,277 (2020) [hereinafter December 30 Order].

³ See December 30 Order at P 27-28.

(2) Revise Exhibit D, Section 2 of the Western Electricity Coordinating Council (“WECC”) Delegation Agreement to specify that WECC has selected the Consolidated Hearing Process in accordance with the NERC Rules of Procedure.⁴

This filing includes the FERC directed modifications to the Revised RDAs.

I. Commission-Directed Modifications to the Revised RDAs

In this section, NERC outlines the FERC-directed modifications to the Revised RDAs.

A. NERC will consistently apply the revision of replacing the term “identified” with “described” when referencing the Regions’ geographic boundaries in Exhibit A.

In the December 30 Order, FERC stated that it agreed with NERC that the term “described” relays a more accurate depiction of the regional boundaries outlined in Exhibit A than the term “identified”.⁵ The term “identified” was used to reference the maps of the Regional Entities that were removed from the Revised RDAs because the precision of the maps was not perfect and could lead to amending the Delegation Agreements if a registered entity is transferred from one Regional Entity to another. FERC, however, noted that the change was not consistently applied throughout the Revised RDAs. FERC notes that the *pro forma* Delegation Agreement does not reflect this change in section 4(c), and that individual Delegation Agreements do not reflect the change in sections 1(c) and 4(c). As a result, FERC directed NERC to change the terms in the Revised

⁴ See *Id.* at P 31.

⁵ See *Id.* at P 26.

RDAs.⁶ In accordance with the December 30 Order, NERC has made the changes to the Revised RDAs as reflected in Attachments 1-8.

B. NERC will specify that WECC has selected the Consolidated Hearing Process in Exhibit D, Section 2.

In the December 30 Order, FERC directed NERC to revise Exhibit D, Section 2 of the WECC Delegation Agreement to specify that WECC has selected the Consolidated Hearing Process in accordance with the NERC Rules of Procedure.⁷ In accordance with the December 30 Order, NERC has added the following underlined language to Exhibit D, Section 2 of the WECC RDA:

2.0 REGIONAL HEARING OF COMPLIANCE MATTERS

WECC has adopted the Consolidated Hearing Process consistent with Rules of Procedure 403.15.B. to conduct hearings and issue decisions concerning disputed compliance matters in accordance with Attachment 2, Hearing Procedures, of Appendix 4C.

However, consistent with the Rules of Procedure and WECC's bylaws, WECC may modify its selection of hearing process by notifying NERC six months prior to the decision becoming effective. 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.

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,

⁶ See *Id.* at P 27.

⁷ See *Id.* at P 31.

to the NERC Compliance Monitoring and Enforcement Program, subject to the following deviations, if any: None.

Respectfully submitted,

/s/ Alain Rigaud

Nina Jenkins-Johnston
Assistant General Counsel
Alain Rigaud
Associate Counsel
North American Electric Reliability Corporation
3353 Peachtree Road NE, Suite 600 – North Tower
Atlanta, GA 30326
(404) 446-9650
nina.johnston@nerc.net
alain.rigaud@nerc.net

*Counsel for North American Electric Reliability
Corporation*

Dated: May 18, 2021

ATTACHMENTS 1 - 8