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Exhibit C — Guideline 2b-4 VSL Review and Findings

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I. INTRODUCTION

The North American Electric Reliability Corporation (“NERC”) hereby submits this filing and accompanying reports documenting NERC’s review of Violation Severity Level (“VSL”) assignments for specific Reliability Standards to determine consistency with the Federal Energy Regulatory Commission’s (“FERC”) VSL assignment Guidelines 1, 2b, 3, and 4.¹

This filing details the NERC VSL assignment review by the standards drafting team, NERC staff’s conclusions and recommendations based on its independent review, and the resulting justifications and proposed revisions regarding the appropriate VSL assignments for each Reliability Standard requirement contained herein. The VSLs included have been analyzed by the assigned standards drafting teams, reviewed by NERC staff, and balloted (“Filing 1”). A subsequent filing (“Filing 2”) will address the VSLs that are not included in Filing 1. In general, Filing 1 contains the VSLs for the original set of 83 Reliability Standards and NUC-001-2, less VSLs for certain requirements that NERC has determined need further input and justification. In general, Filing 2 will contain the VSLs for the Reliability Standards submitted after the original set of Reliability Standards, plus those requirements that were excluded from Filing 1 because they needed further input and justification.

VSLs to be included in Filing 2 will be posted for comment and a non-binding poll will be conducted, consistent with the NERC Rules of Procedure. These proposed VSLs will then be submitted to the NERC Board of Trustees and the applicable governmental authorities after completion of that process.

¹ This filing and accompanying reports were prepared to comply with directives in paragraphs 13, 41, 42, and 56 of FERC June 19, 2008 Order, and paragraph 30 in the November 20, 2008 Order. *North American Electric Reliability Corp.*, 123 FERC ¶ 61,284 (2008) (the “June VSL Order”), *order on reh’g, North American Electric Reliability Corp.*, 125 FERC ¶ 61,212 (2008) (“November VSL Order”).

Exhibit A of this filing contains a clean version of final proposed VSLs for the Reliability Standards considered in this review. **Exhibit B** to this filing contains the redline version of those same VSLs, demonstrating the revisions proposed in this filing, as compared to the last version of those VSLs.² **Exhibit C** to this filing, “Guideline 2b-4 VSL Assignment Review and Findings,” documents each requirement for which VSL assignments included in this filing were reviewed, describes the issues addressed in the review, includes proposed revisions resulting from the review, and the conclusions regarding consistency of the assignments with FERC Guidelines 2b, 3, and 4.³ **Exhibit D** to this filing contains the FERC-directed Guideline 1 VSL Review Report.⁴ **Exhibit E** contains NERC’s certification that it has reviewed each of the VSL assignments set forth herein for consistency with Guidelines 2b, 3 and 4, as directed by FERC.

NERC prepared this filing and accompanying reports to comply with paragraphs 13, 41, 42, and 56 of the June VSL Order, and paragraph 30 of the November VSL Order, requiring that NERC submit: 1) a report on its analysis with regard to Guideline 1 documenting whether the VSL assignments allow for a level of compliance lower than the historical performance, and 2) a compliance filing certifying that NERC has reviewed VSL assignments for consistency with Guidelines 2b, 3 and 4, validating that the assignments meet Guidelines 2b, 3, and 4, and proposing revisions to those that do not meet Guidelines 2b, 3, and 4. NERC submitted this filing with FERC on March 5, 2010, and is also submitting this filing with the other applicable governmental authorities in Canada.

² For ease of reference, this document contains the text of the applicable Reliability Standard requirements. In the event of a conflict between those included in the attachment and the earlier-submitted version, the earlier-submitted version prevails.

³ For ease of reference, this document contains the text of the revised VSLs set forth in Exhibits A and B. In the event of a conflict, the text in Exhibits A and B prevails.

⁴ The Guideline 1 VSL Review Report addresses the 83 original Reliability Standards and the NUC Reliability Standards. Certain of the VSLs identified in the report will be submitted as part of Filing 2.

II. NOTICES AND COMMUNICATIONS

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

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III. BACKGROUND

a. FERC VSL Orders

On March 3, 2008, NERC submitted a compliance filing to FERC containing a complete set of VSLs⁵ for the original 83 Reliability Standard requirements and NUC-001-1. In its June 19, 2008 VSL Order, responding to the March 3 NERC filing, FERC approved the VSLs for the 83 standards, directed certain modifications to VSL assignments, and described four guidelines that FERC developed to guide its evaluation of VSLs. FERC also ordered NERC to provide certain reports and compliance filings using the guidelines to bring the VSLs into compliance with the guidelines. The four FERC guidelines for evaluating VSLs include:

Guideline 1: Violation Severity Level assignments should not have the unintended consequence of lowering the current level of compliance;

⁵ The VSLs are a post-violation measurement of the degree to which a requirement was violated using four possible categories (Lower, Moderate, High, or Severe), and coupled with the Violation Risk Factor, establishes an initial base penalty range.

Guideline 2: Violation Severity Level assignments should ensure uniformity and consistency among all approved Reliability Standards in the determination of penalties;

- (a) the single VSL assignment category for “binary” requirements is not consistent;
- (b) the VSL assignments contain ambiguous language.

Guideline 3: Violation Severity Level assignments should be consistent with the corresponding requirement; and

Guideline 4: Violation Severity Level assignments should be based on a single violation, not on a cumulative number of violations.

With respect to Guidelines 2, 3 and 4, the June 19, 2008 VSL Order directed NERC to submit a compliance filing within six months of the date of the order, certifying that NERC reviewed each of the VSL assignments for consistency with the FERC guidelines by: 1) providing a description of how NERC performed its review; and 2) either validating the existing VSL designations, or proposing revisions to specific approved VSL assignments that NERC determines do not meet the FERC guidelines.

Under Guideline 1, FERC directed that the report should include a description of how NERC performed the historical analysis. Specifically, NERC must identify: (i) the requirement and its current VSL assignments; and (ii) summarize the requirement’s historical performance data. Where NERC determines that VSL assignments are inconsistent with a requirement’s historical performance data, FERC directed that NERC should submit either: (i) revised assignments that accurately reflect historical levels of compliance; or (ii) provide a justification of the current VSL assignment.

On July 21, 2008, NERC filed a request for clarification and rehearing on several aspects of the June VSL Order. In its November VSL Order, FERC clarified that NERC may use its Reliability Standards development process identified in the NERC Reliability Standards Development Procedure for the development of VSLs. In addition, FERC granted NERC an

extension of nine-months, to September 18, 2009, to provide the reports directed by the June VSL Order. Subsequently, on September 16, 2009, FERC granted NERC's request for an extension to March 1, 2010. On March 1, 2010, FERC granted an extension to March 5, 2010.

b. VSL Review

NERC assigned the responsibility for the review of VSLs relative to Guidelines 2, 3, and 4 for the original 83 VSLs and NUC-001-1 to Project 2007-23 — Violation Severity Level Standard Drafting Team (“VSLDT”) and Project 2008-08 — EOP Violation Severity Level Revisions⁶ Standard Drafting Team (“EOP VSLDT”). The EOP VSLDT posted its initial product in April 2008. In April 2009, both teams posted VSLs reflecting the FERC Guideline analysis for industry review. After an initial round of comments, the proposed VSLs were balloted initially and then through recirculation ballot in July and August, 2009, respectively. The following table provides the results of this activity.

⁶ The EOP VSLDT was formed to focus specifically on the EOP standards.

VSL Ballot (by standard types)	Initial		Recirculation	
	Quorum (%)	Approval (%)	Quorum (%)	Approval (%)
Resource and Demand Balancing (BAL)	86.28	89.56	92.04	89.41
Critical Infrastructure Protection (CIP), Communications (COM), and Voltage & Reactive (VAR)	86.50	85.78	92.41	84.64
Facilities (FAC) and Modeling (MOD)	86.64	87.63	92.67	88.04
Interchange (INT), Personnel (PER), and Nuclear (NUC)	85.71	88.63	92.17	88.73
Interconnected Reliability Operations (IRO)	86.16	90.15	91.96	90.77
Protection and Control (PRC)	86.32	88.26	92.31	86.93
Transmission Operations (TOP)	86.40	89.14	92.11	88.26
Transmission Planning (TPL)	85.71	90.46	91.96	89.28
Emergency Preparedness and Operations (EOP)	87.98	87.31	92.70	85.80

The reasons cited for the negative ballots can be grouped into eight categories:

1. VSL language inconsistent with requirements;
2. Risk versus severity;
3. Opposed to binary approach;
4. Requests VSLs be balloted by requirement;
5. Changes inconsistent with guidelines 2b, 3 and 4;
6. Creates potential double jeopardy for non-compliance;
7. Punitive to smaller entities; and
8. Discriminatory towards Balancing Authorities.

The following table displays the number of ballots with negative comments grouped according to the above reasons for each Reliability Standard family.

Negative Comments for VSLs by Reason and Standard Family

Reason	Standard Family								
	BAL	CIP, COM, VAR	FAC MOD	INT PER NUC	IRO	PRC	TOP	TPL	EOP
1. Language and VSL consistency with requirements	1	10	4	9		5	4	1	4
2. Risk versus severity	2		3			2		3	4
3. Binary approach opposition	6	5	4	5	5	5	4	4	5
4. VSL balloting approach opposition	4	4	4	4	4	4	4	4	4
5. Guidelines 2b, 3 and 4 consistency	1			1	1		1		
6. Double jeopardy for compliance	4				4	4			
7. Punitive to smaller entities	1	2							6
8. Discriminatory to Balancing Authorities	4								

In addition to supporting the drafting team efforts, NERC staff conducted further independent analysis of the VSL assignments and justifications proposed by the drafting teams for consistency with the FERC Guidelines. NERC staff also performed the Guideline 1 evaluation.

Following this independent review, on November 3, 2009, NERC posted proposed changes to balloted VSLs for 60 requirements associated with the original 83 standards for industry comment. After considering industry comments, NERC restored VSLs for two requirements to the previously balloted language, and six additional requirements were identified for further VSL modifications, including basic edits and corrections.

The VSLs associated with the Reliability Standards other than the original 83 Reliability Standards had not undergone the VSL consistency review relative to the FERC Guidelines. Subsequent NERC review of the VSLs with respect to the FERC guidelines identified the need

for further modifications. These will be included in Filing 2. Filing 2 also will include VSLs for the original 83 Reliability Standards that were modified by NERC staff after the November 3, 2009 posting and comment period and therefore were not included in the set posted for comment on November 3, 2009. Finally, Filing 2 will include changes to certain of the VSLs included in the November 3, 2009 posting that were made as a result of comments and/or NERC staff review. Those proposed VSLs will be posted for industry comment and will be submitted for approval in Filing 2 upon completion of the NERC development process, as described above.

IV. RESPONSE TO DIRECTIVES IN VSL ORDER

In NERC's comprehensive review of VSL assignments following the FERC June 2008 VSL Order:

- Nearly 1,200 VSL assignments were reviewed for this filing;
- Nearly 750 VSL assignments were reviewed relative to the original 83 standards and NUC-001-1, of which nearly 500 VSL assignments are included in this Filing 1;
- Over 400 VSL assignments were revised to conform FERC guidelines as part of Filing 1;
- Over 80 VSL assignments included were not modified as a result of the guideline analyses; and
- Over 450 VSL assignments were also reviewed for new or revised versions of standards approved since the original standards were approved; these will be paired with about 250 VSL assignments from the original approved set of standards requiring further input and justification that are not included in Filing 1, resulting in over 700 VSL assignments to be included in Filing 2.

a. FERC VSL Guideline 1

In the June VSL Order, FERC directed NERC to file a report on historical performance, where NERC has historical performance data, and to compare that historical compliance for individual requirements with their assigned VSL to ensure that the VSL assignments do not reduce current levels of reliability. In the November VSL Order, FERC directed NERC to use

both pre-2008 historical data and 2008 compliance data in its evaluation of assigned VSLs applying Guideline 1. NERC conducted this review and the resulting report is presented in **Exhibit D** of this filing. While NERC generally found that VSL assignments maintain the thresholds for non-compliance at least equivalent to the levels that were achieved under voluntary compliance, NERC also concluded that revisions of 13 Reliability Standard VSLs are appropriate relative to the Guideline 1 review. Such changes are identified in this report and will be included in Filing 2.

b. FERC VSL Guidelines 2b, 3 and 4

In the June VSL Order, FERC also directed NERC to submit a compliance filing certifying that it has reviewed each VSL Assignment for consistency with Guidelines 2b, 3 and 4, validating the assignments that meet Guidelines 2b, 3 and 4, and proposing revisions to those that do not meet Guidelines 2b, 3 and 4.

In accordance with Guideline 2b, NERC reviewed VSL assignments to determine the uniformity and consistency of VSLs. With respect to Guideline 3, NERC reviewed VSL assignments to determine whether VSLs were consistent with, and did not undermine, corresponding Reliability Standard requirements. Regarding Guideline 4, NERC reviewed the VSLs to determine whether VSL assignments were based on a single violation of Reliability Standard requirements and not based on a cumulative number of violations of the same requirement over a period of time. **Exhibit C** contains the results of the review, and the explanations regarding proposed revisions to VSLs to comply with the referenced FERC Guidelines. **Exhibit E** contains the certification of NERC's Director of Standards that the requisite review for Guidelines 2b, 3 and 4 was undertaken.

Respectfully submitted,

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Exhibit A

Clean VSLs

(Available on the NERC Website at

[http://www.nerc.com/fileUploads/File/Filings/Attachments to VSL Guidance Filing.pdf](http://www.nerc.com/fileUploads/File/Filings/Attachments%20to%20VSL%20Guidance%20Filing.pdf))

Exhibit B

Redline VSLs

(Available on the NERC Website at

[http://www.nerc.com/fileUploads/File/Filings/Attachments to VSL Guidance Filing.pdf](http://www.nerc.com/fileUploads/File/Filings/Attachments%20to%20VSL%20Guidance%20Filing.pdf))

Exhibit C

Guideline 2b-4 Review and Findings

(Available on the NERC Website at

[http://www.nerc.com/fileUploads/File/Filings/Attachments to VSL Guidance Filing.pdf](http://www.nerc.com/fileUploads/File/Filings/Attachments_to_VSL_Guidance_Filing.pdf))

Exhibit D

Guideline 1 Report

(Available on the NERC Website at

http://www.nerc.com/fileUploads/File/Filings/Attachments_to_VSL_Guidance_Filing.pdf)

Exhibit E

NERC Certification of Guideline Review

(Available on the NERC Website at

[http://www.nerc.com/fileUploads/File/Filings/Attachments to VSL Guidance Filing.pdf](http://www.nerc.com/fileUploads/File/Filings/Attachments%20to%20VSL%20Guidance%20Filing.pdf))