

December 21, 2011

**VIA ELECTRONIC FILING**

Ms. Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

**Re: *North American Electric Reliability Corporation***  
**Docket No. RM11-18-000**

Dear Ms. Bose:

The North American Electric Reliability Corporation (“NERC”) hereby submits these comments in response to the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) October 20, 2011, NOPR, seeking comments regarding a proposed revision to footnote ‘b’ of Table 1 in four proposed Transmission Planning Reliability Standards TPL-001-1– System Performance Under Normal (No Contingency) Conditions (Category A), TPL-002-1b – System Performance Following Loss of a Single Bulk Electric System Element (Category B), TPL-003-1a – System Performance Following Loss of Two or More Bulk Electric System Elements (Category C), and TPL-004-1– System Performance Following Extreme Events Resulting in the Loss of Two or More Bulk Electric System Elements (Category D). Footnote ‘b’ appears in all four of the aforementioned TPL standards, however, its relevance and practical applicability is limited to TPL-002-1b — System Performance Following Loss of a Single Bulk Electric System Element (Category B).

Proposed footnote ‘b’ was developed to address the directives from Order No. 693,<sup>1</sup> as clarified in the Commission’s June 11, 2010 order denying rehearing and granting partial clarification.<sup>2</sup> Proposed footnote ‘b’ enhances the clarity of the proposed Reliability Standards TPL-001-1– System Performance Under Normal (No Contingency) Conditions (Category A), TPL-002-1b – System Performance Following Loss of a Single Bulk Electric System Element (Category B), TPL-003-1a – System Performance Following Loss of Two or More Bulk Electric System Elements (Category C), and TPL-004-1– System Performance Following Extreme Events Resulting in the Loss of Two or More Bulk Electric System Elements (Category D) while better protecting the reliability of the BES. As previously stated, proposed footnote ‘b’ “represent[s] a significant revision and improvement relative to the current

<sup>1</sup> *Mandatory Reliability Standards for the Bulk-Power System*, 118 FERC ¶ 61,218, FERC Stats. & Regs. ¶31,242 (2007) (“Order No. 693”) at P 1773, 1794, 1797. *Order on Reh’g, Mandatory Reliability Standards for the Bulk-Power System*, 120 FERC ¶ 61,053 (“Order No. 693-A”) (2007).

<sup>2</sup> *Order Denying Rehearing and Granting Partial Clarification, Denying Request for Stay, and Granting Extension of Time*, 131 FERC ¶ 61,231 (2010). (“June 2010 Order”).

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set of enforceable standards.”<sup>3</sup> NERC further believes that the directive to clarify footnote ‘b’ issued in Order No. 693 and re-iterated in the June 2010 Order has been addressed by the proposed footnote ‘b’. Accordingly, NERC respectfully disagrees with the Commission’s proposal to remand footnote ‘b’. The Commission should approve footnote ‘b’ as proposed by NERC in its petition submitted to the Commission on March 18, 2011.

In the NOPR, the Commission expressed three main concerns:

1. *The Commission believes that NERC’s proposal does not meet the directives in Order No. 693 and the June 2010 Order and does not clarify or define the circumstances in which an entity can plan to interrupt Firm Demand for a single contingency. Specifically, the Commission is concerned that the procedural and substantive parameters ... are too undefined to provide assurances that the process will be effective in determining when it is appropriate to plan for interrupting Firm Demand ... and could result in inconsistent results in implementation.*<sup>4</sup>
2. *In proposing a stakeholder process without specification of any technical means by which exceptions are to be evaluated, the proposed footnote effectively turns the processes into a reliability standards development outside of NERC’s existing procedures.*<sup>5</sup>
3. *Regardless of the process used, the result could lead to inconsistent reliability requirements within and across reliability regions ... [and that] there are no technical or other criteria to determine whether varied results among regions or entities are arbitrary or based on meaningful distinctions.*<sup>6</sup>

NERC Responds:

1. Footnote ‘b’ meets FERC’s Order No. 693 directive to clarify the circumstances in which an entity can plan to interrupt Firm Demand for a single contingency. The proposed standard is clear, enforceable, and technically justified even if procedural and substantive parameters for different planning entities do not impose precisely consistent processes.
2. NERC did not propose a specific stakeholder process.
3. The performance requirements imposed on all entities are the same. Established open and transparent stakeholder processes that allow for stakeholder input will provide an opportunity to

<sup>3</sup> *Petition of the North American Electric Reliability Corporation for Approval of Four Transmission Planning System Performance Reliability Standards and Retirement of Four Existing Reliability Standards*, Docket No. RM11-18-000 (March 31, 2011) at p. 6. (“March 31 Petition”).

<sup>4</sup> *Transmission Planning Reliability Standards*, 137 FERC ¶ 61,077 at P 11 (October 20, 2011) (“NOPR”).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

review planned interruptions of firm demand, but will not be able to approve or disapprove such interruptions.

The proposed footnote 'b' represents an improvement over the prior Commission-approved version. A quorum of the registered ballot body (93.61%) affirmed the footnote 'b' revision with a substantial majority (86.54%) of the balloters approving the revision in a recirculation ballot. The NERC Board of Trustees agreed and approved the standard on February 17, 2011. NERC filed its petition for approval of the revised footnote 'b' with the Commission on March 18, 2011. Additionally, NERC has petitioned the Commission to approve Reliability Standard TPL-001-2 — Transmission System Planning Performance Requirements. The footnote 'b' revision was very important to many of the balloters that approved NERC's proposed TPL-001-2 — Transmission System Planning Performance Requirements with 75.37% of balloters voting in favor of the new TPL-001-2 Reliability Standard with 20 of the affirmative votes for the standard conditioned on the approval of footnote 'b' by the Commission which was retained in TPL-001-2 as footnotes 9 and 12.

Thus, NERC respectfully disagrees with the Commission's proposal to remand the proposed footnote 'b'

Please contact the undersigned if you have any questions.

Respectfully submitted,

/s/ Andrew M. Dressel

Andrew M. Dressel

*Attorney for North American Electric Reliability Corporation*



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**Exhibit A** - Current Transmission Planning Regions

## I. INTRODUCTION

The North American Electric Reliability Corporation (“NERC”)<sup>1</sup> hereby provides these comments in response to the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Notice of Proposed Rulemaking (“NOPR”)<sup>2</sup> regarding a proposed revision to footnote ‘b’ of Table 1 in four proposed Transmission Planning Reliability Standards. In the NOPR, the Commission proposed to remand the proposed revision to footnote ‘b’ to Table 1 of the four currently-effective Reliability Standards TPL-001-0.1– System Performance Under Normal (No Contingency) Conditions (Category A), TPL-002-0b – System Performance Following Loss of a Single Bulk Electric System Element (Category B), TPL-003-0a – System Performance Following Loss of Two or More Bulk Electric System Elements (Category C), and TPL-004-0– System Performance Following Extreme Events Resulting in the Loss of Two or More Bulk Electric System Elements (Category D). The Commission sought comments from interested parties on the proposed remand of NERC’s revisions.

Table 1, footnote ‘b’ to the four proposed Reliability Standards concerns planned or controlled interruption of electric supply where a single contingency occurs on a transmission system. Proposed footnote ‘b’ reads as follows:

An objective of the planning process should be to minimize the likelihood and magnitude of interruption of firm transfers or Firm Demand following Contingency events. Curtailment of firm transfers is allowed when achieved through the appropriate re-dispatch of resources obligated to re-dispatch, where it can be demonstrated that Facilities, internal and external to the Transmission Planner’s planning region, remain within applicable Facility Ratings and the re-dispatch does not result in the shedding of any Firm Demand. It is recognized that Firm Demand will be interrupted if it is: (1) directly served by the Elements removed from service as a result of the Contingency, or (2) Interruptible Demand or Demand-Side

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<sup>1</sup> The Federal Energy Regulatory Commission certified NERC as the electric reliability organization (“ERO”) in its order issued on July 20, 2006 in Docket No. RR06-1-000. *North American Electric Reliability Corporation*, “Order Certifying North American Electric Reliability Corporation as the Electric Reliability Organization and Ordering Compliance Filing,” 116 FERC ¶ 61,062 (July 20, 2006).

<sup>2</sup> *Transmission Planning Reliability Standards*, 137 FERC ¶ 61,077 (October 20, 2011) (“NOPR”).

Management Load. Furthermore, in limited circumstances Firm Demand may need to be interrupted to address BES performance requirements. When interruption of Firm Demand is utilized within the planning process to address BES performance requirements, such interruption is limited to circumstances where the use of Demand interruption are documented, including alternatives evaluated; and where the Demand interruption is subject to review in an open and transparent stakeholder process that includes addressing stakeholder comments.

Proposed footnote ‘b’ was developed to address the directives from Order No. 693,<sup>3</sup> as clarified in the Commission’s June 11, 2010 order denying rehearing and granting partial clarification.<sup>4</sup> Proposed footnote ‘b’ enhances the clarity of the proposed Reliability Standards TPL-001-1– System Performance Under Normal (No Contingency) Conditions (Category A), TPL-002-1b – System Performance Following Loss of a Single Bulk Electric System Element (Category B), TPL-003-1a – System Performance Following Loss of Two or More Bulk Electric System Elements (Category C), and TPL-004-1– System Performance Following Extreme Events Resulting in the Loss of Two or More Bulk Electric System Elements (Category D) while better protecting the reliability of the BES. As previously stated, proposed footnote ‘b’ “represent[s] a significant revision and improvement relative to the current set of enforceable standards.”<sup>5</sup> NERC further believes that the directive to clarify footnote ‘b’ issued in Order No. 693 and re-iterated in the June 2010 Order has been addressed by the proposed footnote ‘b’. Accordingly, NERC respectfully disagrees with the Commission’s proposal to remand footnote ‘b’. The Commission should approve footnote ‘b’ as proposed by NERC in its petition submitted to the Commission on March 18, 2011.

By this filing, NERC submits its response to the NOPR.

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<sup>3</sup> *Mandatory Reliability Standards for the Bulk-Power System*, 118 FERC ¶ 61,218, FERC Stats. & Regs. ¶31,242 (2007) (“Order No. 693”) at P 1773, 1794, 1797. *Order on Reh’g, Mandatory Reliability Standards for the Bulk-Power System*, 120 FERC ¶ 61,053 (“Order No. 693-A”) (2007).

<sup>4</sup> *Order Denying Rehearing and Granting Partial Clarification, Denying Request for Stay, and Granting Extension of Time*, 131 FERC ¶ 61,231 (2010). (“June 2010 Order”).

<sup>5</sup> *Petition of the North American Electric Reliability Corporation for Approval of Four Transmission Planning System Performance Reliability Standards and Retirement of Four Existing Reliability Standards*, Docket No. RM11-18-000 (March 31, 2011) at p. 6. (“March 31 Petition”).

## II. NOTICES AND COMMUNICATIONS

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

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## III. SUMMARY

**In the NOPR, the Commission expressed three main concerns:**

1. *The Commission believes that NERC's proposal does not meet the directives in Order No. 693 and the June 2010 Order and does not clarify or define the circumstances in which an entity can plan to interrupt Firm Demand for a single contingency. Specifically, the Commission is concerned that the procedural and substantive parameters ... are too undefined to provide assurances that the process will be effective in determining when it is appropriate to plan for interrupting Firm Demand ... and could result in inconsistent results in implementation.<sup>6</sup>*
2. *In proposing a stakeholder process without specification of any technical means by which exceptions are to be evaluated, the proposed footnote effectively turns the processes into a reliability standards development outside of NERC's existing procedures.<sup>7</sup>*
3. *... [R]egardless of the process used, the result could lead to inconsistent reliability requirements within and across reliability regions ... [and that] there are no technical or*

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<sup>6</sup> NOPR at P 11.

<sup>7</sup> *Id.*



*other criteria to determine whether varied results among regions or entities are arbitrary or based on meaningful distinctions.*<sup>8</sup>

**NERC responds:**

1. Footnote ‘b’ meets FERC’s Order No. 693 directive to clarify the circumstances in which an entity can plan to interrupt Firm Demand for a single contingency. The proposed standard is clear, enforceable, and technically justified even if procedural and substantive parameters for different planning entities do not impose precisely consistent processes.
2. NERC did not propose a specific stakeholder process.
3. The performance requirements imposed on all entities are the same. Established open and transparent stakeholder processes that allow for stakeholder input will provide an opportunity to review planned interruptions of firm demand, but will not be able to approve or disapprove such interruptions.

NERC respectfully disagrees with the Commission’s proposal to remand the proposed Reliability Standards TPL-001-1– System Performance Under Normal (No Contingency) Conditions (Category A), TPL-002-1b – System Performance Following Loss of a Single Bulk Electric System Element (Category B), TPL-003-1a – System Performance Following Loss of Two or More Bulk Electric System Elements (Category C), and TPL-004-1– System Performance Following Extreme Events Resulting in the Loss of Two or More Bulk Electric System Elements (Category D). Footnote ‘b’ appears in all four of the aforementioned TPL standards, however, its relevance and practical applicability is limited to TPL-002-1b — System Performance Following Loss of a Single Bulk Electric System Element (Category B).

These standards represent an improvement over the prior versions of the standards. A quorum of the registered ballot body (93.61%) affirmed the footnote ‘b’ revision with a substantial majority (86.54%) of the balloters approving the revision in a recirculation ballot. The NERC Board of Trustees agreed and approved the standard on February 17, 2011. NERC filed its petition for approval of the revised footnote ‘b’ with the Commission on March 18,

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<sup>8</sup> *Id.*

2011. Additionally, NERC has petitioned the Commission to approve Reliability Standard TPL-001-2 — Transmission System Planning Performance Requirements.<sup>9</sup> The footnote ‘b’ revision was very important to many of the balloters that approved NERC’s proposed TPL-001-2 — Transmission System Planning Performance Requirements with 75.37% of balloters voting in favor of the new TPL-001-2 Reliability Standard with 20 of the affirmative votes for the standard conditioned on the approval of footnote ‘b’ by the Commission which was retained in TPL-001-2 as footnotes 9 and 12.<sup>10</sup>

The Commission asserts in the NOPR that NERC is proposing a stakeholder process for transmission planning that would exist outside the standards development process but that is not correct. NERC clarifies that its petition did not propose a new stakeholder process, but builds upon existing transmission planning processes at the regional and state levels. FERC Order Nos.

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<sup>9</sup> The four Reliability Standards TPL-001-0.1– System Performance Under Normal (No Contingency) Conditions (Category A), TPL-002-0b – System Performance Following Loss of a Single Bulk Electric System Element (Category B), TPL-003-0a – System Performance Following Loss of Two or More Bulk Electric System Elements (Category C), and TPL-004-0– System Performance Following Extreme Events Resulting in the Loss of Two or More Bulk Electric System Elements (Category D) will be replaced by TPL-001-2 which was filed with the Commission on October 19, 2011. TPL-001-2 includes significant improvements over the currently-effective standards and addresses numerous Commission directives. See *Petition of the North American Electric Reliability Corporation for Approval of a Revised Transmission Planning System Performance Requirements Reliability Standard and Five New Glossary Terms and for Retirement of Four Existing Reliability Standards*, Docket No. RM12-1-000 (October 19, 2011).

<sup>10</sup> TPL-001-2 — Transmission System Planning Performance Requirements Table 1 footnote 9 states:

An objective of the planning process should be to minimize the likelihood and magnitude of interruption of Firm Transmission Service following Contingency events. Curtailment of Firm Transmission Service is allowed both as a System adjustment (as identified in the column entitled ‘Initial Condition’) and a corrective action when achieved through the appropriate re-dispatch of resources obligated to re-dispatch, where it can be demonstrated that Facilities, internal and external to the Transmission Planner’s planning region, remain within applicable Facility Ratings and the re-dispatch does not result in any Non-Consequential Load Loss. Where limited options for re-dispatch exist, sensitivities associated with the availability of those resources should be considered.

TPL-001-2 — Transmission System Planning Performance Requirements Table 1 footnote 12 states:

An objective of the planning process should be to minimize the likelihood and magnitude of Non-Consequential Load Loss following Contingency events. However, in limited circumstances Non-Consequential Load Loss may be needed to address BES performance requirements. When Non-Consequential Load Loss is utilized within the planning process to address BES performance requirements, such interruption is limited to circumstances where the Non-Consequential Load Loss is documented, including alternatives evaluated; and where the utilization of Non-Consequential Load Loss is subject to review in an open and transparent stakeholder process that includes addressing stakeholder comments.

890<sup>11</sup> and 1000<sup>12</sup> actually mandate many of the regional and interregional planning processes to which NERC is referring. Other well-established stakeholder processes involve the intersection of transmission planning and distribution network planning and are carried out by state public utility commissions, agencies, and other authorized state actors.

This is an area that is beyond the jurisdictional reach of the Federal Power Act section 215. Furthermore, questions of reliability of local systems that do not affect the BES should be left to those who bear the costs of improving reliability or will suffer the consequences from an unreliable design.

#### **IV. DISCUSSION**

##### **A. The Proposed Reliability Standards**

In a March 31, 2011 filing,<sup>13</sup> NERC requested Commission approval of four proposed Reliability Standards TPL-001-1— System Performance Under Normal (No Contingency) Conditions (Category A), TPL-002-1b — System Performance Following Loss of a Single Bulk Electric System Element (Category B), TPL-003-1a — System Performance Following Loss of Two or More Bulk Electric System Elements (Category C), and TPL-004-1— System Performance Following Extreme Events Resulting in the Loss of Two or More Bulk Electric System Elements (Category D). The purpose of the revisions to these standards was to clarify footnote ‘b’ to Table 1 included in each of the four standards in fulfillment of a directive from

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<sup>11</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh’g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh’g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh’g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009). (“Order No. 890”)

<sup>12</sup> *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, 136 FERC ¶ 61,051 (2011) (“Order No. 1000”).

<sup>13</sup> See NERC, *Petition of the North American Electric Reliability Corporation for Approval of Four Transmission Planning System Performance Reliability Standards and Retirement of Four Existing Reliability Standards*, Docket No. RM11-18-000 (March 31, 2011).

Order No. 693<sup>14</sup> and a subsequent order issued on March 18, 2010 setting a deadline for compliance with the original directive.<sup>15</sup> On October 20, 2011, FERC issued a NOPR in which it proposed to remand NERC's proposed revisions to footnote 'b' of Table 1 included in revised Reliability Standards TPL-001-1, TPL-002-1b, TPL-003-1a, and TPL-004-1.

## **B. Responses to Specific Matters Identified by the Commission**

### **Issue 1 - Stakeholder Process and Enforceability**

*The Commission seeks comment on whether a stakeholder process is the appropriate vehicle to approve or deny exceptions to allow entities to plan to interrupt Firm Demand for a single contingency and if so, whether the proposed footnote 'b' would require any stakeholder due process.*<sup>16</sup>

*The Commission seeks comment on its concerns regarding enforceability, vetting of Firm Demand interruption decisions, and openness and transparency of the proposed stakeholder process set forth in NERC's proposal.*<sup>17</sup>

NERC's proposed footnote 'b' states that "an objective of the planning process is to limit the likelihood and magnitude of interruption of ... Firm Demand following Contingency events."<sup>18</sup> The proposed footnote allows for interruptions of Firm Demand under limited circumstances. Specifically, footnote 'b' allows for an interruption of load that is "(1) directly served by the Elements removed from service as a result of the Contingency, or (2) Interruptible Demand or Demand-Side Management Load."<sup>19</sup> Further, the proposed footnote allows for planned interruptions of Firm Demand to meet Bulk Electric System ("BES") performance requirements under a narrow set of circumstances. Footnote 'b' limits these instances by requiring that when interruption of Firm Demand is utilized within the planning process to address BES performance requirements, such interruption is limited to circumstances where

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<sup>14</sup> Order No. 693 at P 1773, 1794, 1797.

<sup>15</sup> *Order Setting Deadline for Compliance*, 130 FERC ¶ 61,200 (March 18, 2010).

<sup>16</sup> NOPR at P 20,

<sup>17</sup> *Id.* at P 23.

<sup>18</sup> Footnote 'b'.

<sup>19</sup> *Id.*

- (1) the use of Demand interruption is documented;
- (2) alternatives are evaluated;
- (3) the Demand interruption is subject to review in an open and transparent stakeholder process;
- (4) that process must include addressing stakeholder comments.

Publishing the interruption and the alternatives evaluated to such an interruption significantly raises the bar compared to the existing standards. If the planned interruption of Firm Demand is required to meet performance requirements, and that planned interruption and the alternatives evaluated are documented, then the final piece of the footnote adds an additional requirement that “where the Demand interruption is subject to review in an open and transparent stakeholder process that includes addressing stakeholder comments.”<sup>20</sup> The requirement to address stakeholder comments in such a process is not presently an obligation and the addition of this concept greatly raises the bar by requiring planners to share not only their plans to interrupt Firm Demand but also their rationale for the decisions being made. Tracking this information over time, and reporting on it to the Commission will reveal to NERC and the Commission whether there is a continued reliability concern here.<sup>21</sup> At present, it is unknown how many instances exist where such planning occurs, or how frequently service is planned on an N-1 basis is interrupted.<sup>22</sup>

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<sup>20</sup> *Id.*

<sup>21</sup> In the comments submitted by the National Association of Regulatory Utility Commissioners (“NARUC”) on December 20, 2011, NARUC suggested that “FERC could play a valuable role by requiring transmission plans drafted under the provisions of Orders 890 and 1000 to disclose what system conditions will lead to retail load shedding. This information would aid States in ensuring that appropriate planning takes place for the local distribution system.” NERC agrees with this suggested approach. *Comments of the National Association Of Regulatory Utility Commissioners*, Docket No. RM11-18-000 (December 20, 2011) at footnote 4.

<sup>22</sup> As proposed in Section V of this document, NERC is prepared to monitor the implementation and use of footnote ‘b’ in transmission planning processes and submit an annual report to FERC.

NERC’s proposal to allow entities to plan for interruptions of Firm Demand in limited circumstances following a single contingency is based upon the idea that limited interruptions are acceptable only “where Demand interruptions are documented, including alternatives evaluated; and where the Demand interruption is subject to review in an open and transparent stakeholder process.”<sup>23</sup> Accordingly, the proposed footnote ‘b’ can only be employed by Transmission Planners and Planning Authorities if the interruption does not affect the reliability of the BES. This means that no planning entity can plan to interrupt load if it will cause instability, cascading, or uncontrolled separation. Planned, controlled loss of a small amount of load is not an indication of an unreliable system; unplanned or uncontrolled load loss is. Tripping load is in some instances the lesser of two evils. Planned, controlled loss of local load is a service issue, not a reliability issue.

NERC’s proposal also recognizes that the decision to interrupt local Firm Demand is essentially an economic decision – trading the possibility of the potential interruptions with the increased costs of requiring all load to be served at N-1. The impact on customers of any potential power interruption will need to be addressed and evaluated in a process that can address local service quality needs and economics, so that those familiar with local conditions can determine the appropriate balance between reliability and costs.

In the limited instances that applicable entities may plan to interrupt Firm Demand following a Contingency, it is beneficial to review those interruptions with affected parties in an open and transparent stakeholder process. This ensures that any planned interruptions of Firm Demand will be visible to affected and neighboring entities allowing others to either prepare for that loss or challenge the planning entity on their decision to interrupt Firm Demand. NERC does not propose to rely on a new stakeholder process to approve or deny such a plan to interrupt

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<sup>23</sup> TPL-002-1b Table 1 footnote ‘b’ (“footnote ‘b’”).

Firm Demand. Instead, NERC builds upon established stakeholder processes, such as those that take place under Order Nos. 890 and 1000 and those before state public utility commissions which are required to be open and transparent, only for review. NERC believes the introduction of an additional planning process may contribute to further delays and regulatory confusion. Further, NERC will not challenge FERC's or the state commissions' due process provisions in their already-existing stakeholder processes as insufficient or arbitrary.

In the compliance guidance NERC will establish for the use of the proposed footnote 'b', NERC compliance auditors will be directed to request information about the stakeholder process utilized to ensure all the requirements within footnote 'b' have been met by planning entities that plan to interrupt Firm Demand following Contingencies and that planning entities meet the performance requirements. Failure to do so will be a violation of the requirements referencing footnote b.<sup>24</sup>

States have long been the arbiter for rate cases and siting of facilities covering all generation, transmission, and distribution facilities. FERC has recognized this on several occasions as well as the limited jurisdictional authority of Section 215 to the Federal Power Act.<sup>25</sup> Order No. 672 acknowledges:

Section 215(i) (Savings Provisions) states that the ERO shall have authority to develop and enforce compliance with Reliability Standards for only the Bulk-Power System and provides that section 215 of the FPA shall not be construed to preempt any authority of any state to take action to ensure the safety, adequacy, and reliability of electric service

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<sup>24</sup> If the stakeholder process referenced by the utility under audit, is an actual process managed by the utility is the authority having jurisdiction (as is done in some utilities which are agencies of the state for instance), then NERC compliance auditors will be looking closely for any self-dealing which may occur in the review process. These situations will receive closer scrutiny for adherence to the tenets of footnote 'b' to ensure that the process is well-documented, open to all relevant stakeholders, and makes available the necessary information for stakeholders to participate in the process.

<sup>25</sup> 16 U.S.C § 824o(b) as limited by 16 U.S.C § 824o(i).

within that state, as long as such action is not inconsistent with any Reliability Standard.<sup>26</sup>

Additionally FERC has:

Emphasize[d] that [the Commission] intend[s] to continue to respect states' roles in these areas. Indeed, the Commission has devoted considerable time and attention in recent years, through its orders and its many regional infrastructure conferences, to encouraging states and others to develop plans for ensuring adequate electric generation, transmission, and demand response infrastructure for both reliability and market adequacy.<sup>27</sup>

State-level stakeholder processes, typically overseen by the state public utility commission, have been created by the states to include rules that require all stakeholder concerns be addressed including those of the utilities, the ratepayers, consumer advocates, and environmental advocates.<sup>28</sup> Following the passage of the Energy Policy Act of 2005,<sup>29</sup> state regulators no longer could exercise plenary authority as reliability regulator on their state's piece of the Bulk Power System, but they did not lose their role over the reliability of local transmission systems and distribution networks. Congress realized that the balance of interests in any local area should be evaluated locally by those who foot the bill. NERC agrees.

Transmission planning processes also exist at the regional and Interconnection-wide level. Regional and interregional planning was mandated by the Commission in Order No. 890<sup>30</sup> and furthered in Order No. 1000.<sup>31</sup> The processes instilled by these orders are open and

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<sup>26</sup> *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval and Enforcement of Electric Reliability Standards, FERC Stats. & Regs.*, ¶ 31,204 ("Order No. 672") at P 12, *order on reh'g*, FERC Stats. & Regs. ¶ 31,212 (2006) ("Order No. 672-A"). *See also* Order No. 672 at P 815.

<sup>27</sup> Order No. 672 at P 814.

<sup>28</sup> Twenty-seven of the states subject to the authority of 16 U.S.C. § 824o require participation in Integrated Resource Planning. Another eleven of these states have mandated some type of long-term procurement planning. Many of the remaining states are in ISO/RTO markets which have instituted their own open and transparent regional planning processes as discussed below. For a good summary of Integrated Resource Planning requirements, *see A Brief Survey of State Integrated Resource Planning Rules and Requirements*, Prepared for the American Clean Skies Foundation by Rachel Wilson, Paul Peterson (April, 2011) at fig. 3 and Appendix 1. Available at: [http://www.cleanskies.org/wp-content/uploads/2011/05/ACSF\\_IRP-Survey\\_Final\\_2011-04-28.pdf](http://www.cleanskies.org/wp-content/uploads/2011/05/ACSF_IRP-Survey_Final_2011-04-28.pdf).

<sup>29</sup> Codified at 16 U.S.C. § 824o.

<sup>30</sup> Order No. 890 at P 435 – 443.

<sup>31</sup> Order No. 1000 P 77 -83. **Exhibit A** contains a map of the current transmission planning regions.



transparent and include methods for addressing stakeholder comments. Each of the seven U.S.-based Independent System Operators conduct regional transmission planning in accordance with Order No. 890 and will be required to do so under Order No. 1000. These processes are well-established and allow for considerable due process considerations for affected entities and persons. Interconnection-wide planning now occurs at some level in each of the three interconnections with the assistance from the Department of Energy through the American Recovery and Reinvestment Act.<sup>32</sup> Those grants sought to facilitate or strengthen the capabilities “to prepare analyses of transmission requirements under a broad range of alternative futures and develop long-term interconnection-wide transmission expansion plans.”<sup>33</sup> Additionally, those grants required broad inclusion of diverse stakeholders including industry representatives, state officials and agencies, and non-governmental organizations. There is therefore no reason to introduce an additional stakeholder process.

The foregoing reasons – keeping decision-making with those most impacted by decisions regarding reliability and costs, lack of jurisdictional authority, and the existence of established open and transparent stakeholder processes – are the reasons NERC did not create a new stakeholder process to vet decisions to plan to interrupt Firm Demand. No new stakeholder process will be empowered by the proposed footnote to approve or deny any planned interruption of Firm Demand. These decisions will not impact the enforceability of the TPL-001-1– System Performance Under Normal (No Contingency) Conditions (Category A), TPL-002-1b – System Performance Following Loss of a Single Bulk Electric System Element (Category B), TPL-003-1a – System Performance Following Loss of Two or More Bulk Electric System Elements (Category C), and TPL-004-1– System Performance Following Extreme Events Resulting in the

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<sup>32</sup> American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 (2009)

<sup>33</sup> Recovery Act – Resource Assessment and Interconnection-Level Transmission Analysis and Planning, Funding Announcement Opportunity DE-FOA-0000068 (2009).

Loss of Two or More Bulk Electric System Elements (Category D) Reliability Standards because Compliance Enforcement Authority auditors will look to ensure that the BES planning performance requirements have been met and that no decision to interrupt service will cause instability, cascading, or uncontrolled separation on the BES.

### **Issue 2 – Defined Criteria for an Exceptions Process**

*The Commission seeks comment on whether an exceptions process that provides defined criteria, with some allowance or consideration for unique circumstances, could be crafted that would resolve NERC's concerns of 'undesirable delays' and 'uncertainty.'*<sup>34</sup>

NERC does not believe that an exceptions process that provides defined criteria, with some allowances for unique circumstances, could be crafted that would respect pre-existing decision making processes that occur at state and local jurisdictions and recognizes that the option to serve load at less than N-1 level of service should be a local decision. As stated above in Issue 1, the decision to interrupt local load is essentially an economic decision – a quality of service issue, not a reliability issue. Those affected by any potential power interruption should have their concerns evaluated in a process that can address local needs. This will allow those that are familiar with local conditions to determine the appropriate balance between reliability and costs. NERC is not the appropriate forum for these types of decisions.

Addition of a new process, as described in the NOPR, would necessarily bring another level of discussion into the overall process with no discernible benefits. The existing processes that NERC's proposals rely on will not be eliminated simply because a new stakeholder process is added. Those having jurisdictional authority on existing processes are not going to cede their authority or eliminate those processes. Therefore, any new process will just add to the

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<sup>34</sup> NOPR at P 22.

evaluation burden and require a longer period of time for the overall process to complete. This will lead to undesirable delays in the planning process.

### **Issue 3 – Threshold for limits on Firm Demand Interruption**

*The Commission seeks comment on whether existing protocols could provide guidance to NERC in devising criteria. Specifically, FERC requests comments on whether DOE’s Form OE-417 criteria or NERC’s Statement of Compliance Registry Criteria could serve as a basis for setting limits on when an entity can plan to interrupt Firm Demand on the BPS.<sup>35</sup>*

*The Commission seeks comments on whether NERC considered a blend of quantitative and qualitative thresholds as “an option for providing criteria that would be generally applicable, but also for certain cases that may exceed the criteria.” The Commission also seeks comment on whether a standard “could require a process with a quantitative limitation on how much Firm Demand could be planned for interruption and that standard could provide an exception process where a registered entity would submit documents and an explanation to the ERO or Regional Entity for approval based upon certain considerations. Further, if this can be carried out, which entities should be involved in the review and subsequent determinations on allowable exceptions?<sup>36</sup>*

The standards drafting team (“SDT”) that developed this standard considered and discussed this issue extensively. The SDT determined that utilizing the DOE form OE 417 in this manner would be arbitrary. Moreover, the SDT determined that any bright-line MW limit would be inappropriate because the bright-line would be arbitrary. The societal impacts of lost load will be substantially different around the country due to network topology, local resources, and population density. Additionally, the jurisdictional limitations imposed on FERC and NERC through Section 215 of the Federal Power Act as described above in Issue 1 will also limit NERC’s ability to set a threshold value for load interruption. As the SDT considered the issue as directed in Order No. 693,<sup>37</sup> NERC believes that it has fulfilled this directive.

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<sup>35</sup> *Id.* at P 26.

<sup>36</sup> *Id.* at P 27.

<sup>37</sup> Order No. 693 at P 1795.

#### **Issue 4- Feasibility of Footnote ‘b’ Revisions**

*The Commission seeks comment on whether a feasible option would be to revise footnote ‘b’ to allow for the planned interruption of Firm Demand in circumstances where the planner can show that it has customer or community consent and there is no adverse impact to the BPS. ... [Further,] the Commission seeks comments on who might be able to represent the customer or community in this option and how customer or community consent might be demonstrated. ... Additionally, [FERC] seeks comment on how it would be determined that Firm Demand shedding with customer consent would not adversely impact the BPS. ... [FERC also seeks comment] on whether a customer who would have otherwise consent to having its Planning Authority or Transmission Planner plan to interrupt Firm Demand pursuant to this option could instead select interruptible or conditional firm service under the tariff to address cost concerns.<sup>38</sup>*

Proposed footnote ‘b’ is a part of a transmission planning performance standard. It will act to protect the BES even if load is not served. This comports with the fact that NERC only has the authority to act in instances where BES reliability is affected. NERC has no authority over pre-existing stakeholder processes, including those established to comply with Commission Order Nos. 888, 890, and 1000; state, regional, and interconnection-wide planning processes have been established with the consent of the authorities that brought about or have endorsed their existence.

Regarding customers, NERC does not believe it would be feasible to seek customer consent regarding the planned interruption of Firm Demand. NERC has no relationship with retail customers. Therefore, NERC has no mechanism to bring retail customers into the conversation. Customers, both wholesale and retail, are already deeply involved in state processes which provide a forum for them to be heard. Customer participation, both retail and wholesale, is already robust in local planning processes such as rate cases. Additionally, customers are represented in numerous regional planning processes as well as the interconnection-wide planning processes funded by the Department of Energy.

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<sup>38</sup> *Id.* at P 28

## **V. ALTERNATIVE SOLUTION**

If the Commission finds the arguments herein do not satisfy their concerns, NERC is prepared to monitor the implementation and use of footnote ‘b’ in transmission planning processes and submit an annual report to FERC.<sup>39</sup> Through this monitoring, NERC could also investigate the extent of planned interruptions of Firm Demand used in transmission planning and whether pre-existing jurisdictional processes currently address the related quality of service issues inherent in these interruptions. NERC would submit the first of these reports twelve months from the effective date of the proposed Reliability Standards. This will allow the Commission and NERC to have the information necessary to propose an appropriate policy solution for Firm Demand interruption, if necessary. If further action is deemed to be required after review of these findings, NERC will utilize the standards development process to make appropriate changes to the applicable standards.

## **VII. CONCLUSION**

For the reasons stated above, NERC respectfully requests that the Commission take action consistent with these comments when it issues its Final Rule and approve the proposed revision to footnote ‘b’ to Table 1 of TPL-001-1– System Performance Under Normal (No Contingency) Conditions (Category A), TPL-002-1b – System Performance Following Loss of a Single Bulk Electric System Element (Category B), TPL-003-1a – System Performance Following Loss of Two or More Bulk Electric System Elements (Category C), and TPL-004-1– System Performance Following Extreme Events Resulting in the Loss of Two or More Bulk Electric System Elements (Category D) Reliability Standards.

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<sup>39</sup> In addition to data acquired from spot-checks and audits, NERC will likely need to initiate a mandatory data request under Section 1600 of the NERC Rules of Procedure to supply this data.

Respectfully submitted,

/s/ Andrew M. Dressel

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**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing document upon all parties listed on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 21st day of December, 2011.

*/s/ Andrew M. Dressel*  
Andrew M. Dressel  
*Attorney for North American Electric*  
*Reliability Corporation*

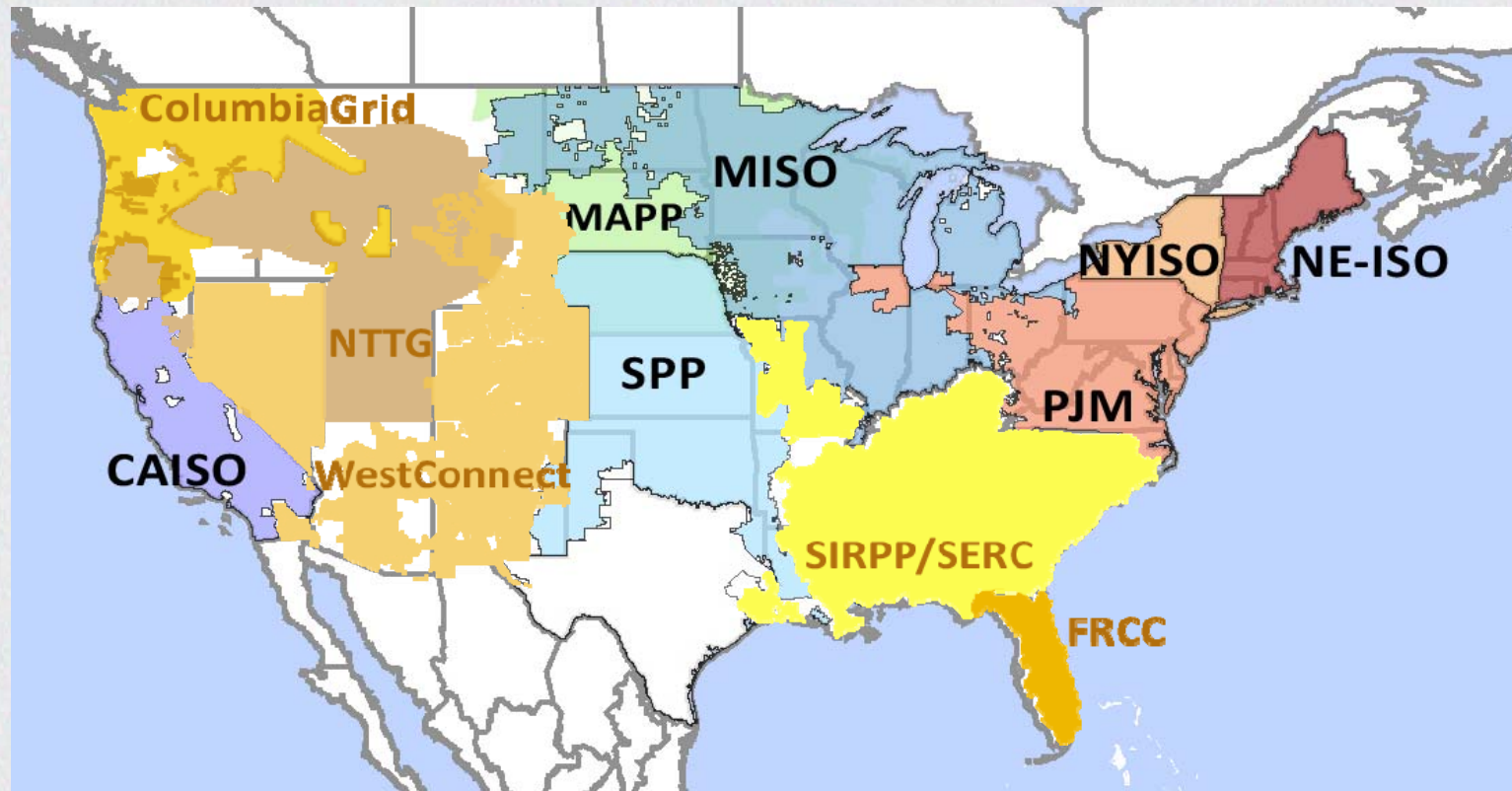
## **Exhibit A**

### **Current Transmission Planning Regions**



# Current Transmission Planning Regions \*

Federal Energy Regulatory Commission



- This map is for illustration purposes only. This map generally depicts the borders of regional transmission planning processes through which transmission providers have complied with Order No. 890. Those borders may not be depicted precisely for several reasons (e.g., not all transmission providers complying with Order No. 890 have a defined service territory). Additionally, transmission planning regions could alter because transmission providers may choose to change regions.
- Source: Derived from Energy Velocity