

---

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION**

<i>Western Electricity Coordinating Council</i>	)	Docket No. EL13-52-000
	)	
<i>Edison Electric Institute</i>	)	Docket No. RR13-12-000
	)	
<i>North American Electric Reliability Corporation</i>	)	Docket No. RR13-10-000
	)	
	)	Docket No. RR14-6-000
	)	(not consolidated)

**ANSWER OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
TO THE EDISON ELECTRIC INSTITUTE’S  
SEPTEMBER 1, 2015 MOTION TO VACATE**

Pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”),<sup>1</sup> the North American Electric Reliability Corporation (“NERC”) submits this answer to the *Motion to Vacate of the Edison Electric Institute*<sup>2</sup> filed on September 1, 2015 (“EEI Motion to Vacate”) in the above-captioned dockets. In this answer, NERC requests that the Commission limit vacatur of the December 2013 Order<sup>3</sup> and the February 2014 Order<sup>4</sup> to exclude the Commission’s approval of two Peak Reliability (“Peak”) governance documents: (1) the NERC-Western Electricity Coordinating Council (“WECC”) Regional Delegation Agreement and (2) the termination agreement between WECC and the

---

<sup>1</sup> 18 C.F.R. §§ 385.212 and 385.213(a)(2) (2015).

<sup>2</sup> *Edison Electric Institute*, Motion to Vacate of the Edison Electric Institute, Docket Nos. EL13-52-000, RR13-12-000, RR13-10-000, and RR14-6-000 (filed Sept. 1, 2015).

<sup>3</sup> *Order on Reh’g, Independent Reliability Coordinator for Western Interconnection Filings, and Directing Compliance Filings*, 145 FERC ¶ 61,202 (2013) (“December 2013 Order”).

<sup>4</sup> *Order on Compliance*, 146 FERC ¶ 61,092 (2014) (“February 2014 Order”).

Northeast Power Coordinating Council, Inc. (“NPCC”) (“Termination Agreement”).

## **I. BACKGROUND.**

In its Motion to Vacate, EEI requested that the Commission vacate “in their entirety” a series of orders in which the Commission provided Peak with Section 215 funding for performing the Reliability Coordinator (“RC”) and Interchange Authority (“IA”) functions in the Western Interconnection (collectively the “Peak Funding Orders”).<sup>5</sup> EEI contends that the Peak Funding Orders provide no ongoing value to stakeholders or to the public and that vacating these orders will not harm Peak.<sup>6</sup> EEI also calls attention to Section 12.2 of the RC Funding Agreement, which conditions the commitment of the signatories of the agreement not to seek refunds from Peak for amounts paid for RC and IA services between January 1, 2014 and December 31, 2015 on the FERC issuance vacating various FERC orders (including the Peak Funding Orders).

## **II. THE COMMISSION SHOULD LIMIT VACATUR OF THE DECEMBER 2013 ORDER AND THE FEBRUARY 2014 ORDER TO EXCLUDE THE COMMISSION’S APPROVAL OF THE NERC-WECC REGIONAL DELEGATION AGREEMENT AND THE TERMINATION AGREEMENT.**

EEI’s request for vacatur is too broad and unnecessarily eliminates precedent not directly related to Federal Power Act section 215 funding for Peak. NERC requests that any vacatur of the December 2013 Order and February 2014 Order exclude the Commission’s approval of the

---

<sup>5</sup> *Western Electricity Coordinating Council*, 143 FERC ¶ 61,239, *reh’g denied*, 145 FERC ¶ 61,202 (2013) (granting WECC’s petition for a declaratory order holding that a separate, independent company could continue to receive statutory funding for performing the RC and IA functions in WECC), *appeal docketed sub nom. Edison Electric Institute v. FERC*, No. 14-1012 (D.C. Cir. Jan. 27, 2014); *North American Electric Reliability Corp.*, 146 FERC ¶ 61,092 (2014), *reh’g denied*, 147 FERC ¶ 61,064 (2014) (approving the governing documents for the transfer of the RC and IA functions to Peak and approving statutory funding for Peak for 2014), *appeal docketed sub nom. Edison Electric Institute v. FERC*, No. 14-1071 (D.C. Cir. May 9, 2014); *North American Electric Reliability Corp.*, 149 FERC ¶ 61,028 (2014) (accepting the NERC 2015 budget filing). EEI’s request for vacatur of the NERC 2015 budget order is limited to P27 and Ordering Paragraph D.

<sup>6</sup> EEI Motion to Vacate at pgs. 6-9.

amended NERC-WECC Regional Delegation Agreement originally filed with the Commission on August 26, 2013 and subsequently revised on December 19, 2013 (“NERC-WECC 2013 RDA Filings”) as well as the Termination Agreement which was filed in draft form on September 20, 2013 and subsequently in final, executed form on March 13, 2014.<sup>7</sup>

In the NERC-WECC 2013 RDA Filings, NERC sought to implement the separation of WECC’s compliance monitoring and enforcement functions from the RC and IA functions for the Western Interconnection. These changes were accepted by the Commission in the December 2013 Order and the February 2014 Order; therefore, they are reflected as currently effective RDA language in NERC’s June 26, 2015 petition for approval of the revised *pro forma* and the revised Regional Delegation Agreements with the eight Regional Entities (“June 2015 RDA Petition”). If the Commission vacates the December 2013 Order and the February 2014 Order in their entirety, then NERC will need to seek the Commission’s re-approval of the changes in the NERC-WECC 2013 RDA Filings. It is more efficient for the Commission to limit vacatur of the December 2013 Order and the February 2014 Order as suggested herein so that the changes in the NERC-WECC 2013 RDA Filings remain in effect.

Similarly, WECC and NPCC executed a Termination Agreement to provide an organized transition and end to NPCC’s role as the Compliance Enforcement Authority for WECC. This agreement was approved by the Commission along with other Peak governance documents so that Peak could assume responsibility for WECC registered functions. Since the Termination Agreement imposes certain obligations upon NPCC during this transition, the Commission should not overturn its approval of this agreement.

---

<sup>7</sup> See Peak Reliability Governance Documents Petition, Docket No. RR13-12-000, at 12 and Attachments A (Peak Reliability bylaws), B (RC Agreement), and C (Termination Agreement) (filed Sept. 20, 2013); Informational Filing of Executed Documents of Western Electricity Coordinating Council, Docket No. RR13-12-001 (filed Mar. 13, 2014).

The limited vacatur requested in this answer would not affect EEI's request to vacate precedent authorizing section 215 funding for Peak.

### **III. CONCLUSION.**

NERC respectfully requests that any vacatur of the December 2013 Order and the February 2014 Order exclude the Commission's approval of the changes to the NERC-WECC RDA in the NERC-WECC 2013 RDA Filings as well as the Commission's approval of the Termination Agreement.

Respectfully submitted,

/s/ Nina H. Jenkins-Johnston

Nina H. Jenkins-Johnston  
Senior Counsel  
North American Electric Reliability  
Corporation  
1325 G Street, N.W., Suite 600  
Washington, D.C. 20005  
(202) 400-3000  
(202) 644-8099 – facsimile  
nina.johnston@nerc.net

*Counsel for the North American Electric  
Reliability Corporation*

Date: September 15, 2015

**CERTIFICATE OF SERVICE**

I hereby certify I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 15<sup>th</sup> day of September 2015.

/s/ Nina H. Jenkins-Johnston

Nina H. Jenkins-Johnston  
Senior Counsel  
North American Electric Reliability  
Corporation  
1325 G Street, N.W., Suite 600  
Washington, D.C. 20005  
(202) 400-3000  
(202) 644-8099 – facsimile  
nina.johnston@nerc.net

*Counsel for the North American Electric  
Reliability Corporation*