



NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

April 12, 2010

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

RE: NERC Separation Filing Regarding Texas Reliability Entity, Inc., FERC Docket
No. RR10-6-000

Dear Ms. Bose:

By this filing, the North American Electric Reliability Corporation (NERC) provides additional information in support of the separation filing submitted February 19, 2010, in this proceeding. With respect to funding, in Section 4 of Exhibit E, "Application of Penalties,"¹ there is a reference to an agreement that will be reflected in a separate document.²

To clarify, there is not, at this time, a separate agreement. There would not be such a document until after New Texas Reliability Entity, Inc. (New Texas RE) went into operation. That sentence was included in Exhibit E, because if penalty monies are paid by the Electric Reliability Council of Texas, Inc. (ERCOT) after the separation becomes effective, based on noncompliance that occurred before the separation, NERC and New Texas RE need to have the flexibility to determine an equitable allocation of the penalty monies between NERC and New Texas RE. This allocation will be based on the specific facts and circumstances surrounding the violation. Such facts and circumstances may include, but are not limited to the following: when the underlying violation occurred, which entity performed the NERC Compliance Monitoring and Enforcement Program (CMEP) work (or how much each did), and what resources did the entity expend in pursuit of the CMEP work. The specific resolution in each instance (if there are any instances) would be memorialized in the "separate document" at that time.

If ever such an agreement comes into existence, NERC will include it and the resulting allocation of penalty dollars in the next annual business plan and budget filings of NERC and New Texas

¹ *Petition for Approval of Delegation Agreement with Texas Reliability Entity, Inc. and 2010 Business Plan and Budget of Texas Reliability, Inc.*, RR10-6-000, at p. 32 (April 12, 2010).

² "Provided, however, that the allocation between NERC and Texas RE of any penalty monies paid by ERCOT after the effective date of this Agreement in respect of violations of reliability standards occurring before the effective date of this Agreement, shall be agreed to by NERC and Texas RE in a separate document."

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RE for the Federal Energy Regulatory Commission (FERC) to review, as required. The rules obligate NERC and New Texas RE to account for penalty dollars in the business plan and budget filing in any event, so there is not a need for FERC to impose that as a separate condition or obligation.

Please contact me if you have any questions.

Sincerely,

/s/ Rebecca J. Michael

Rebecca J. Michael

*Assistant General Counsel for North
American Electric Reliability
Corporation*