

November 14, 2007

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

Re: Docket Nos. RC07-1-000 and RC07-2-000

Dear Ms. Bose:

On October 18, 2007, the Federal Energy Regulatory Commission (FERC or Commission) issued an "Order Remanding Proceedings" to the North American Electric Reliability Corporation (NERC)¹ involving Mosaic Fertilizer, LLC (Mosaic)² and City of Tampa, Florida (Tampa). In the October 18 Order, the Commission remanded the proceedings to NERC for NERC to either reconsider its decisions or take the opportunity to provide a further explanation of the basis for its denials of the Mosaic and Tampa appeals.³

As discussed in the body of the attached decision, the NERC Board of Trustees Compliance Committee has determined to remove Mosaic and Tampa from the NERC Compliance Registry. The Compliance Committee has rendered this decision based on the information provided by the Florida Reliability Coordinating Council and the specific factual circumstances of the matters before it.

By the attached decision, NERC informs the Commission that it is removing Mosaic and Tampa from the NERC Compliance Registry.

Sincerely,

/s/ Rebecca J. Michael

Rebecca J. Michael
*Attorney for the North American
Electric Reliability Corporation*

cc: Service Lists

¹ *Mosaic Fertilizer, LLC, et al.*, 121 FERC ¶ 61,058 (2007) (October 18 Order).

² IMC Phosphates (IMC) and Cargill Fertilizer, Inc. (Cargill) are the entities included in the NERC Compliance Registry. According to Mosaic, these entities were merged into Mosaic Fertilizer, LLC in 2004. NERC will remove references to these entities on the NERC Compliance Registry.

³ October 18 Order at P 1.

**Board of Trustees Compliance Committee
Decision on Remand
(Issued November 14, 2007)**

On October 18, 2007, the Federal Energy Regulatory Commission (FERC or Commission) issued an “Order Remanding Proceedings to NERC”¹ involving Mosaic Fertilizer, LLC (Mosaic)² and City of Tampa, Florida (Tampa). By this decision, NERC informs the Commission that it is removing Mosaic and Tampa from the NERC Compliance Registry.

Background

On July 26, 2007, Mosaic filed an appeal of the NERC Board of Trustees Compliance Committee’s July 5, 2007 decision to affirm Florida Reliability Coordinating Council’s (FRCC) determination to include Mosaic on the NERC Compliance Registry for the functions of generator owner and generator operator. On July 26, 2007, Tampa filed an appeal of the Compliance Committee’s July 5, 2007 decision to affirm FRCC’s determination to include Tampa on the NERC Compliance Registry for the function of generator owner.

In the October 18 Order, the Commission stated that NERC did not adequately address Mosaic’s and Tampa’s arguments and remanded the proceedings to NERC for NERC to either reconsider its decisions or take the opportunity to provide a further explanation of the basis for its denials of the Mosaic and Tampa appeals.³ The Commission held, however, that Mosaic and Tampa would remain on the NERC Compliance Registry, during the pendency of the appeal.⁴ The Commission directed NERC to file its decision within 30 days.

On October 22, 2007, the NERC Board of Trustees Compliance Committee issued a Request for Supplemental Information to FRCC. In the Request for Supplemental Information, the Compliance Committee stated that, if FRCC wishes to continue to retain Mosaic and Tampa on the NERC Compliance Registry, FRCC should provide supplemental information addressing the issues identified by the Commission in its October 18 Order.⁵ The Compliance Committee established October 31, 2007 as the date by which FRCC must provide to NERC, with a copy to Mosaic and Tampa, supplemental information. The Compliance Committee established

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³ October 18 Order at P 1.

⁴ *Id.* at P 35.

⁵ *See, e.g., id.* at PP 34-40.

November 10, 2007 as the due date for Mosaic and Tampa to file with NERC, with a copy to FRCC, any replies to FRCC's supplemental information.

Responses to Request for Supplemental Information

On October 31, 2007, FRCC notified the NERC Board of Trustees Compliance Committee of its decision, subject to the conditions described below, to remove Mosaic and Tampa from the Compliance Registry.

FRCC states that, upon further review of the reliability requirements of peninsular Florida, it has determined that Mosaic and Tampa can be removed from the Compliance Registry at an acceptable level of risk to reliability. In reaching this decision, FRCC concluded that, at the 69 kV level and under current conditions, the bulk power system in peninsular Florida can tolerate a *de minimis* threshold for firm power sales at the same 20 MW threshold implied by Section III.c.1 of the NERC *Statement of Compliance Registry Criteria*.⁶

Specifically, FRCC has determined that it is acceptable for entities with units connected at 69 kV that do not have both a greater than 20 MVA gross nameplate rating and a greater than 20 MW of firm power sales to be exempt from the Compliance Registry for peninsular Florida under current conditions. However, FRCC clarifies that entities with units connected at 69 kV should be included on the NERC Compliance Registry if a unit has a gross nameplate rating greater than 20 MVA and makes firm power sales of more than 20 MW. FRCC further clarifies that this threshold does not apply to units connected directly to the bulk power system (100 kV and above). Moreover, FRCC notes that the *de minimis* threshold may need to be reevaluated in the event of significant changes in the conditions affecting the reliability of the bulk power system in peninsular Florida or the operation of Mosaic and Tampa.

Applying this *de minimis* threshold to Tampa and Mosaic, while certain of their individual units exceed 20 MVA, they do not make firm power sales of more than 20 MW. It is on this basis that FRCC has concluded that they may be exempt from the NERC Compliance Registry.

On November 2, 2007, Mosaic and Tampa responded to FRCC's letter and stated that, in light of FRCC's determination to remove them from the NERC Compliance Registry, they have determined that a formal substantive response is unnecessary.

Decision

In accordance with the October 18 Order, the NERC Board of Trustees Compliance Committee hereby notifies FERC that it concurs with FRCC's decision to remove Mosaic and Tampa from the NERC Compliance Registry. This decision is based on FRCC's determination that, under current system conditions, entities with units connected at 69 kV that do not have both a greater than 20 MVA gross nameplate rating and a greater than 20 MW of firm power sales may be removed from the Compliance Registry at an acceptable level of risk to the reliability of the bulk power system. Here, Mosaic and Tampa are connected at the 69 kV level and neither Mosaic nor Tampa are engaged in firm sales greater than 20 MW. They may be removed from the

⁶ Section III.c.1 of NERC's *Statement of Compliance Registry Criteria* provides for registration of an individual generation unit of greater than 20 MVA (gross nameplate rating) that is directly connected to the bulk power system. Directly connected to the bulk power system is generally defined to refer to facilities connected at 100 kV and above.

Compliance Registry at an acceptable level of risk to reliability of peninsular Florida under prevailing conditions. The Compliance Committee reiterates, however, that this ruling is based on the specific factual circumstances of the matters before it.

For these reasons, the NERC Board of Trustees Compliance Committee directs NERC to remove Mosaic and Tampa from the Compliance Registry, without prejudice to including them at a future time if system conditions warrant or if the facts underlying this decision change.

Mosaic and Tampa have the right to file an appeal of this determination with the Federal Energy Regulatory Commission, in accordance with 18 C.F.R. Part 385, within 21 days of the issuance of this decision, as specified in Rule 501.1.3.4 of NERC's *Rules of Procedure*.

By the Board of Trustees Compliance Committee