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I. INTRODUCTION

The North American Electric Reliability Corporation (“NERC”) submits this informational filing to paragraph 159 of Order No. 693, issued by the Commission on March 16, 2007.¹ In paragraph 159, the Commission directed NERC to file, within 90 days, an informational filing describing NERC’s plan and schedule for developing both an interim and a long-term resolution of issues created by the elimination of references to the “regional reliability organization” in Reliability Standards that identified the regional reliability organization as the sole applicable entity and that relate to data gathering, data maintenance, reliability assessments and other process-type functions procedures.

II. NOTICES AND COMMUNICATIONS

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¹Mandatory Reliability Standards for the Bulk Power System, Order No. 693, 118 FERC ¶61,218 (2007).

III. RESPONSE TO PARAGRAPH 159 OF ORDER NO. 693

In paragraphs 157, 158 and 159 of Order No. 693, the Commission stated:

157. The Commission adopts the NOPR proposal to eliminate references to the regional reliability organization as a responsible entity in the Reliability Standards. We conclude that this approach is appropriate because, as explained in the NOPR, such entities are not users, owners or operators of the Bulk-Power System. NERC indicates that it can remove such references, except that the Regional Entity should be identified as the compliance monitor where appropriate. While the Commission originally proposed that the ERO should be designated as the compliance monitor, we agree with NERC's approach and believe that identifying the Regional Entity as the compliance monitor will provide useful specificity as to which entity will be immediately tasked with monitoring compliance with a particular Reliability Standard. However, as we stated in Order No. 672, the ERO retains responsibility to ensure that a Regional Entity implements its enforcement program in a consistent manner, and to periodically review the Regional Entity's enforcement activities.

158. For those Reliability Standards that identify the regional reliability organization as the sole applicable entity, and that relate to data gathering, data maintenance, reliability assessments and other process-type functions, the NOPR proposed:

as an interim measure . . . to direct the ERO to use its authority pursuant to § 39.2(d) of our regulations to require users, owners and operators to provide to the regional reliability organizations the information related to data gathering, data maintenance, reliability assessments and other "process"-type functions. We believe that this approach is necessary to ensure that there will be no "gap" during the transition from the current voluntary reliability model to a mandatory system in which Reliability Standards are enforced by the ERO and Regional Entities. In the long run, we propose to make the Regional Entities responsible, through delegation by the ERO, for the functions currently performed by the regional reliability organizations. As part of this change, the delegation agreements to the Regional Entities should be modified to bind the Regional Entities to assume these duties and responsibility for noncompliance. In addition, the Reliability Standards should be modified to apply through the Functional Model, to the users, owners and operators of the Bulk-Power System that are responsible for providing information.

159. We continue to believe that this is a reasonable interim measure, and note that EEI and others support this approach. To ensure that the ERO properly and timely addresses this matter, we direct the ERO to submit an informational filing within 90 days of the Final Rule that describes its plan and schedule for

developing both an interim and long-term resolution based upon the above direction.²

The “Reliability Standards that identify the regional reliability organization as the sole applicable entity, and that relate to data gathering, data maintenance, reliability assessments and other process-type functions,” referred to in paragraph 158 of Order No. 693, are EOP-007, MOD-011, MOD-013, MOD-014, MOD-015, MOD-024, MOD-025, PRC-002, PRC-003, PRC-006, PRC-012, PRC-013, PRC-014, PRC-020, TPL-005 and TPL-006.³ These standards, as currently written, place requirements on regional reliability organizations (as the responsible entity) to collect, maintain and provide to the ERO on request various data and information needed by the ERO to carry out its statutory functions.⁴ For example:

- Standard TPL-005 requires each regional reliability organization to annually conduct reliability assessments of its existing and planned regional bulk power system (generation and transmission facilities).
- Standard TPL-006 requires each regional reliability organization to provide, as requested (seasonally, annually or as otherwise specified) by NERC, system data, including past, existing and future facility and bulk power system data, reports and system performance information, necessary to assess reliability and compliance with the NERC reliability standards and the regional planning criteria.
- Standard MOD-011 requires the regional reliability organizations within an Interconnection, in conjunction with the Transmission Owners, Transmission Planners, Generator Owners and resource Planners, to develop comprehensive steady-state data requirements and reporting procedures needed to model and analyze the steady-state conditions for each of the NERC Interconnections.
- Standard PRC-013 requires that regional reliability organizations that have a Transmission Owner, Generator Owner or Distribution Provider with a special protection system installed maintain a database of information on those systems.

²Order No. 693 at PP 157-159 (footnotes omitted).

³*Id.* at P 158 note 77.

⁴NERC is in the process of revising these standards to make them applicable to users, owners and operators of the bulk-power system.

A. Interim Approach

In accordance with Order No. 693, and as an interim approach to gathering the data and information NERC determines to be necessary, including with respect to the conduct of its seasonal and long-term reliability assessments, NERC is requesting this data and information from the eight Regional Entities with approved delegation agreements.⁵ The Regional Entities in turn are requesting the information from users, owners and operators of the bulk-power system within the Regional Entities' respective footprints.

As the Commission noted in paragraph 158 of Order No. 693, upon being certified by the Commission as the Electric Reliability Organization ("ERO"), NERC became empowered by §39.2(d) of the Commission's regulations to require users, owners and operators of the bulk-power system to provide information related to data gathering, data maintenance, reliability assessments and other "process"-type functions to NERC and to the Regional Entities.⁶ To date, NERC has successfully used this authority to obtain, through requests to the prospective (and now approved) Regional Entities, all the data and information NERC required to prepare its 2006/2007 Winter Assessment, its 2007 Summer Assessment and its 2007 Long-Term Reliability Assessment. Section 804 of NERC's Rules of Procedure contains provisions for

⁵In its Order issued April 19, 2007, in Docket Nos. RR06-1-004, RR07-1-000 through RR-07-8-000 and RR06-3-000, the Commission approved the delegation agreements with the eight Regional Entities while directing certain modifications to the agreements. *Order Accepting ERO Compliance Filing, Accepting ERO/Regional Entity Delegation Agreements, and Accepting Regional Entity 2007 Business Plans*, 119 FERC ¶61,060 (2007) ("April 19 Order").

⁶18 C.F.R. §39.2(d) ("Each user, owner or operator of the Bulk-Power System within the United States (other than Alaska and Hawaii) shall provide the Commission, the Electric Reliability Organization and the applicable Regional Entity such information as is necessary to implement section 215 of the Federal Power Act as determined by the Commission and set out in the Rules of the Electric Reliability Organization and each applicable Regional Entity. The Electric Reliability Organization and each Regional Entity shall provide the Commission such information as is necessary to implement section 215 of the Federal Power Act.")

requesting from Regional Entities and other entities the information needed to prepare NERC's winter assessments, summer assessments and long-term reliability assessments. NERC will continue to use its authority under §39.2(d) as an interim approach until it receives the necessary approvals to implement its proposed long-term approach, described below.

Additionally, much of the data NERC needs for these purposes is currently required to be reported to the U.S. Energy Information Administration ("EIA") on its various forms such as EIA-411 and EIA-861. Thus, reports to EIA provide another source of data and information. NERC has a long-standing memorandum of understanding with the EIA which has proven effective in minimizing overlap and duplication of data reporting.

B. Long-Term Approach

In the longer term, contingent upon obtaining certain approvals from the Commission, NERC will formalize its data and information gathering authority and processes as follows: NERC has developed, and intends, after completion of internal processes, to submit to the Commission for approval, a new Section 1600 of the NERC Rules of Procedure that will impose an enforceable requirement on all users, owners and operators of the bulk-power system to provide data and information to NERC in response to specific data and information requests which have been approved by the NERC Board of Trustees. Proposed Section 1600 is currently posted for comment on NERC's website, with the comment period to expire on July 6, 2007.⁷ After the comments received are considered and any appropriate revisions are made, proposed Section 1600 will be submitted to the NERC Board for approval at its August 2007 meeting and, if approved by the Board, will thereafter be filed with the Commission for approval.

⁷Because proposed Section 1600 is currently posted for comment and may be subject to change, NERC is not providing the current text as part of this filing.

Additionally, NERC will work with the Regional Entities to amend the delegation agreements to delegate authority to the Regional Entities to gather data and information from users, owners and operators of the bulk-power system within each Regional Entity's footprint as needed by NERC and Regional Entities to perform reliability assessments.⁸ This action is consistent with the proposals in paragraph 57 of the Notice of Proposed Rulemaking in this docket which are quoted in paragraph 158 of Order No. 693. NERC is required to file with the Commission, by October 16, 2007, revised delegation agreements with the eight Regional Entities incorporating all the revisions directed by the Commission in the April 19 Order. NERC intends to include the additional amendments discussed in this paragraph in the revised delegation agreements that will be filed on October 16, 2007.

Finally, NERC will review its existing Rules of Procedure, including in particular Section 800, will make any changes necessary to bring the existing Rules of Procedure into conformance with new Section 1600 and the revised delegation agreements, and will file any such changes with the Commission for approval. NERC will also use its standards process to make any necessary conforming changes to its Reliability Standards, and will file any such changes, after they are approved by the NERC Board, for Commission approval.

IV. CONCLUSION

The North American Electric Reliability Corporation respectfully requests that the Commission accept this filing as compliance with paragraph 159 of Order No. 693.

⁸Exhibit E to NERC's *pro forma* delegation agreement, which the Commission approved in the April 19 Order, lists "Reliability Assessment and Performance Analysis (Section 800 [of the NERC Rules of Procedure]) (including necessary data gathering activities)" as a delegated statutory activity to be included in the Regional Entity's annual budget submission for funding by the ERO. The April 19 Order also directed that those Regional Entity delegation agreements whose Exhibit E's did not conform to the *pro forma* Exhibit E in this respect should be modified. See April 19 Order at PP 283 and 429.

Respectfully submitted,

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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 Chicago, Illinois this 14th day of June, 2007.

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