

October 25, 2018

**VIA ELECTRONIC FILING**

Mr. Neil Cunningham  
Director of Climate Change and Energy Branch  
Department of Sustainable Development  
1200-155 Carlton Street  
Winnipeg MB R3C 3H8

RE: *North American Electric Reliability Corporation*

Dear Mr. Cunningham:

The North American Electric Reliability Corporation (“NERC”) hereby submits Notice of Filing of the North American Electric Reliability Corporation of Proposed Revisions to Appendix 4E to the Rules of Procedure.

Please contact the undersigned if you have any questions concerning this filing.

Respectfully submitted,

/s/ Shamai Elstein

Shamai Elstein  
*Senior Counsel for the North American Electric  
Reliability Corporation*

Enclosure

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**BEFORE THE  
PROVINCE OF MANITOBA**

**NORTH AMERICAN ELECTRIC )  
RELIABILITY CORPORATION )**

**NOTICE OF FILING OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
OF PROPOSED REVISIONS TO APPENDIX 4E TO THE RULES OF PROCEDURE**

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October 25, 2018

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**Exhibit A**                    Proposed NERC Rules of Procedure Appendix 4E  
                                  CCCPP-004-2 Hearing Procedures – Clean and Redline Versions

**Exhibit B**                    Proposed NERC Rules of Procedure Appendix 4E  
                                  CCCPP-006-2 Mediation Procedures – Clean and Redline Versions

**Exhibit C**                    Comments on Proposed Revisions

**Exhibit D**                    Consideration of Comments

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**NOTICE OF FILING OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
OF PROPOSED REVISIONS TO APPENDIX 4E TO THE RULES OF PROCEDURE**

The North American Electric Reliability Corporation (“NERC”) hereby provides notice of proposed revisions to Appendix 4E (Compliance and Certification Committee (“CCC”) Hearing Procedures, and Mediation Procedures) of its Rules of Procedure (“ROP”). The purpose of the proposed revisions, provided in Exhibit A hereto, is to align the rules and procedural steps of the Hearing Procedures used in the Compliance Monitoring and Enforcement Program (“CMEP”) as per the CCC Charter. For the reasons set forth in this filing, the proposed revisions are just, reasonable, not unduly discriminatory, or preferential, and in the public interest.

## **I. NOTICES AND COMMUNICATIONS**

Notices and communications regarding this filing may be addressed to the following:

Edwin G. Kichline  
Senior Counsel and Director of Enforcement Oversight  
North American Electric Reliability Corporation  
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## **II. BACKGROUND**

### **A. Appendix 4E Section CCCPP-004 of the NERC ROP**

Appendix 4E Section CCCPP-004 requires that the Hearing Procedure is mandated and approved by jurisdictional authorities for use by NERC and the Regional Entities in the Compliance Monitoring and Enforcement Program contained in Section 403 of the ROP. The CCC serves as the hearing body for any contest regarding Penalties for violation of NERC Reliability Standards where NERC itself acts as the Compliance Enforcement Authority. The CCC Charter requires that its Hearing Procedures follow the CMEP Hearing Process unless specifically identified otherwise. For the reasons discussed in Section III of this filing, NERC proposes revisions to Appendix 4E modifying the Hearing Procedures.

### **B. Development of Proposed Revisions**

NERC publicly posted its proposed revisions on April 13, 2018 for 45-day public comment period. NERC received four sets of comments from industry stakeholders in response to the posting. The comments are provided in Exhibit C. Exhibit D provide NERC's consideration of those comments. The NERC Board of Trustees approved the proposed revisions on August 16, 2018.

### **III. SUMMARY OF PROPOSED REVISIONS**

A detailed discussion of the proposed revisions are as follows:

#### **1. CCCPP-004: CCC Hearing Procedures**

NERC proposes changes to Section CCCPP-004 of Appendix 4E to provide consistency of terminology with the Regional Entity (“RE”) Hearing Process described in the ROP. The proposed revisions include replacing the term “segment” with “sector” and “NERC Director of Compliance” with “NERC Director of Enforcement.” The proposed revisions also include eliminating all common definitions that NERC consolidated in Appendix 2. For clarity and ease of use, definitions unique to the CCC Hearing Procedures remain in section 1.1.5.

Additional proposed revisions to CCCPP-004 focus on structural alignment with the RE Hearing Process described in the ROP. This includes a thorough update to match NERC’s most recent report template and the addition of a preface, which introduces the ERO Enterprise and describes its vision. This also includes section 1.2.12, which allows interventions, in alignment with the Hearing Process and Section 1.4.3, which describes the CCC Hearing Panel, in alignment with the CCC Charter. NERC updated Sections 1.3, 1.5, 1.6, 1.7 and 1.9 and added Sections 1.3.2 and 1.3.3 to align with the corresponding ROP Sections.

NERC is proposing revisions to clarify ambiguities within the Hearing Procedures. The proposed revisions clarify a number of issues including Hearing Panel submissions to the Clerk, filings with the Hearing Panel, representations deemed to be made before them, Hearing Panel termination and composition, and requirements related to Settlements. Other clarifications included ex parte communication exceptions, added in 1.4.7(b), ethical standards, added in 1.4.8(d), Settlement requirements, added in 1.8, and the certification of questions to the NERC Board of Trustees Compliance Committee (BOTCC), added in 1.5.12.

## **2. CCCPP-006: CCC Mediation Procedures**

Proposed revisions to CCCPP-006 are not substantive, but instead update the Mediation Procedures to match NERC's most recent template and formatting changes. The proposed revisions also include a preface, which introduces the ERO Enterprise and describes its vision. The proposed revisions also clarify that parties may discuss interests and concerns with mediators any time once the mediation process begins.

Respectfully submitted,

/s/ Edwin G. Kichline

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Date: October 25, 2018

**EXHIBITS A - D**