

July 9, 2015

VIA ELECTRONIC FILING

Jim Crone
Director, Energy Division
Manitoba Innovation, Energy and Mines
1200-155 Carlton Street
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RE: *North American Electric Reliability Corporation*

Dear Mr. Crone:

The North American Electric Reliability Corporation (“NERC”) hereby submits Notice of Filing of the North American Electric Reliability Corporation of the Revised *Pro Forma* Regional Delegation Agreement and the Revised Regional Delegation Agreements with the Eight Regional Entities. NERC requests, to the extent necessary, a waiver of any applicable filing requirements with respect to this filing.

Please contact the undersigned if you have any questions.

Respectfully submitted,

/s/ Holly A. Hawkins

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*Associate General 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 THE REVISED
PRO FORMA REGIONAL DELEGATION AGREEMENT AND THE REVISED
REGIONAL DELEGATION AGREEMENTS WITH THE EIGHT REGIONAL
ENTITIES**

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July 9, 2015

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ATTACHMENTS:

- **Attachment 1:** CLEAN – Revised *Pro Forma* Regional Delegation Agreement
- **Attachment 2:** REDLINE¹ – Revised *Pro Forma* Regional Delegation Agreement
- **Attachment 3A:** CLEAN – Revised Regional Delegation Agreement with Florida Reliability Coordinating Council, Inc.
- **Attachment 3B:** REDLINE² – Revised Regional Delegation Agreement with Florida Reliability Coordinating Council, Inc.
- **Attachment 3C:** REDLINE – Revised Exhibit E to Regional Delegation Agreement with Florida Reliability Coordinating Council, Inc.
- **Attachment 4A:** CLEAN – Revised Regional Delegation Agreement with Midwest Reliability Organization
- **Attachment 4B:** REDLINE – Revised Regional Delegation Agreement with Midwest Reliability Organization
- **Attachment 5A:** CLEAN – Revised Regional Delegation Agreement with Northeast Power Coordinating Council, Inc.
- **Attachment 5B:** REDLINE – Revised Regional Delegation Agreement with Northeast Power Coordinating Council, Inc.
- **Attachment 6A:** CLEAN – Revised Regional Delegation Agreement with ReliabilityFirst Corporation
- **Attachment 6B:** REDLINE – Revised Regional Delegation Agreement with ReliabilityFirst Corporation

¹ This redline is run against the currently effective *pro forma* RDA.

² Consistent with the presentation in prior filings of regional delegation agreements, the redlines of each Regional Entity delegation agreement is run against the revised *pro forma* regional delegation agreement and not against the currently effective regional delegation agreement.

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- **Attachment 7A:** CLEAN – Revised Regional Delegation Agreement with SERC Reliability Corporation
- **Attachment 7B:** REDLINE – Revised Regional Delegation Agreement with SERC Reliability Corporation
- **Attachment 8A:** CLEAN – Revised Regional Delegation Agreement with Southwest Power Pool, Inc., on behalf of Southwest Power Pool Regional Entity
- **Attachment 8B:** REDLINE – Revised Regional Delegation Agreement with Southwest Power Pool, Inc., on behalf of Southwest Power Pool Regional Entity
- **Attachment 9A:** CLEAN – Revised Regional Delegation Agreement with Texas Reliability Entity, Inc.
- **Attachment 9B:** REDLINE – Revised Regional Delegation Agreement with Texas Reliability Entity, Inc.
- **Attachment 10A:** CLEAN – Revised Regional Delegation Agreement with Western Electricity Coordinating Council
- **Attachment 10B:** REDLINE – Revised Regional Delegation Agreement with Western Electricity Coordinating Council
- **Attachment 11:** Stakeholder Comments in Response to March 2015 Posting
- **Attachment 12:** History of RDA-related Petitions Approved After the Commission’s October 7, 2011 Order

to delegate authority to the Regional Entities to propose Reliability Standards to the ERO, to enforce Reliability Standards where applicable, and to perform other activities necessary or appropriate for implementing delegated functions.

This filing is organized into the following five sections:

Section I – Executive Summary of the most significant changes to the *pro forma* RDA.

Section II – Notices and Communications.

Section III – Process for the development of the revised RDAs between NERC and the Regional Entities.

Section IV – Section-by-section description of the substantive differences between the currently effective and the revised *pro forma* RDA.

Section V – Discussion of substantive differences between the revised RDA and the currently effective RDA for each Regional Entity.³

The term of each of the currently effective RDAs ends on December 31, 2015. NERC and the Regional Entities seek to have the revised RDAs go into effect on January 1, 2016.

I. EXECUTIVE SUMMARY

NERC provides notice of a revised *pro forma* RDA, and the revised RDAs with each of the eight Regional Entities, to be effective January 1, 2016, replacing the currently effective RDAs whose terms expire December 31, 2015. The revised RDAs will have five-year terms that automatically renew for another five-year term unless either party gives notice to terminate one year in advance of the end of the term. The provision in the currently effective RDAs conditioning renewal on completion of a five-year audit of the Regional Entities is being

³ This filing does not contain a discussion of the differences between the main body (non-exhibit) portion of the revised *pro forma* RDA and the main body (non-exhibit) portion of the individual revised Regional Entity RDAs. Many of these differences reflect customization of the individual agreements to specific Regional Entity circumstances.

eliminated as unnecessary, in light of NERC’s oversight of Regional Entity activities and the requirement in revised Section 8(f) (described below) that NERC review the Regional Entities’ performance of delegation-related activities on a “reasonable periodicity.”

The proposed revisions to the currently effective RDAs are much less extensive than the changes in the currently effective RDAs in 2010. The revised RDAs are more flexible and contain less prescriptive detail than the currently effective RDAs. They will serve as flexible agreements that accommodate changes to programmatic practices and procedures of the ERO Enterprise while referencing other documents, such as the NERC Rules of Procedure (“ROP”), for detailed practices and procedures.⁴ Further, detailed practices and procedures for the day-to-day operations of the ERO Enterprise will be developed through a collaborative process between NERC and the Regional Entities pursuant to the RDA, with the NERC President having authority to issue directives concerning the manner in which delegated activities are to be performed if the collaborative process is unsuccessful. NERC and the Regional Entities believe the revised RDAs will enhance clarity and consistency in the operations of the ERO. They will also provide for flexibility without diminishing NERC’s oversight authority over the Regional Entities’ performance of their delegated functions.

Revisions reflected in the revised RDAs from the currently effective RDAs include the following:

- The definition of “Delegated Authority” in Section 1(c) of the RDAs is revised to provide that a Regional Entity’s authority to propose and enforce Reliability Standards and to undertake related activities in furtherance of delegated functions is limited to its U.S. jurisdictional boundaries (which are identified in **Exhibit A** to the RDA). However, the scope of delegated authority and delegation-related activities which the Regional Entity is authorized to perform under the revised RDAs remains

⁴ NERC uses the term “ERO Enterprise” to encompass both NERC and the eight Regional Entities.

consistent with the scope of statutory activities in accordance with the Federal Energy Regulatory Commission's ("FERC") Section 215 Order.

- Copies of the Regional Entity's bylaws and regional reliability standards development procedure ("RSDP") will no longer be included in **Exhibits B** and **C**, respectively, of the RDA; however, the Regional Entity bylaws and RSDP continue to be recognized as Regional Entity Rules and any amendments to them will require approval of the NERC Board of Trustees ("NERC Board") and FERC.
- Section 6 of the RDAs is rewritten to eliminate provisions that are either out-of-date or duplicative of compliance monitoring and enforcement provisions in the NERC ROP. Detailed requirements are reduced or eliminated and, instead, the compliance monitoring and enforcement provisions of the ROP are referenced. This allows for adoption of changes to the Compliance Monitoring and Enforcement Program ("CMEP") and other ROP provisions without the need to amend the RDAs.
- Provisions relating to entry into (i) agreements between Regional Entities whereby one may perform Compliance Enforcement Authority ("CEA") responsibilities with respect to registered functions of the other and (ii) agreements between Regional Entities pertaining to compliance monitoring and enforcement responsibilities for Multiple Regional Registered Entities ("MRREs") are clarified.
- In Section 8, an explicit requirement for NERC to audit the Regional Entity's CMEP activities every five years is eliminated, as this requirement is encompassed by Section 402.1.3 of the NERC ROP. However, revised Section 8(f) of the RDA provides for NERC to conduct reviews of the Regional Entity's performance of all of its delegation-related activities on a "reasonable periodicity."

All of the substantive changes in the revised *pro forma* RDA from the currently effective *pro forma* RDA are described in Section IV of this filing.

Exhibits A, D and **E** to the revised RDAs with several of the individual Regional Entities also reflect a number of changes from the corresponding exhibits to the currently effective individual RDAs. The changes are identified and described in Section V of this filing.

II. NOTICES AND COMMUNICATIONS

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

<p>Gerald W. Cauley President and Chief Executive Officer North American Electric Reliability Corporation 3353 Peachtree Road, N.E. Suite 600, North Tower Atlanta, G.A. 30326</p>	<p>Charles A. Berardesco Senior Vice President and General Counsel Nina H. Jenkins-Johnston* Senior Counsel Lauren A. Perotti Counsel North American Electric Reliability Corporation 1325 G Street, N.W., Suite 600 Washington, D.C. 20005 (202) 400-3000 (202) 644-8099 – facsimile charles.berardesco@nerc.net nina.johnston@nerc.net lauren.perotti@nerc.net</p>
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III. BACKGROUND AND DEVELOPMENT OF THE REVISED *PRO FORMA* RDA

On April 4, 2006, NERC submitted a proposal for Regional Entities to perform delegation-related activities as well as NERC’s proposed *pro forma* RDA. Thereafter, NERC entered into individual RDAs with the eight Regional Entities, which NERC submitted on December 8, 2006.

During the first several months of 2010, NERC and the Regional Entities negotiated revisions to the RDAs and NERC developed correlated changes to the NERC ROP, to address topics outlined in NERC’s *Three-Year ERO Assessment Report*.⁵ NERC submitted the revised RDAs in a filing dated June 21, 2010, stating that the revised RDAs would be effective on January 1, 2011, for five-year terms. In October 2010, FERC conditionally approved the proposed revisions to the RDAs and directed that certain aspects of the *pro forma* RDA and the

⁵ *Three-Year Electric Reliability Organization Performance Assessment Report Submitted in Accordance with 18 C.F.R. §39.3(c)*, Docket No. RR09-7-000 (Jul. 20, 2009) (“*Three-Year ERO Assessment Report*”).

individual Regional Entity RDAs be modified.⁶ NERC submitted a compliance filing in February 2011 to FERC to address the modifications to the RDAs directed by FERC.

The term of the currently-effective RDAs expires on December 31, 2015. In October 2014, NERC and the Regional Entities examined the scope of changes that would enhance and clarify the currently effective *pro forma* RDA to reflect existing oversight and governance practices. The Regional Entities also began reviewing the exhibits to their currently effective RDAs to provide needed updates. At the February 2015 NERC Board meeting, management provided the Board with an initial draft of the revised *pro forma* RDA. On March 2, 2015, NERC posted a draft of the revised *pro forma* RDA for stakeholder comment for a 30 day comment period. In response to this posting, NERC received six sets of comments. Copies of the comments are provided in **Attachment 11**.⁷ Further changes were made to the revised *pro forma* RDA based on the comments as well as further discussion among NERC and the Regional Entities.⁸

The final proposed *pro forma* RDA was presented to the NERC Board for approval at its May 2015 meeting. On May 7, 2015, the NERC Board approved the revised *pro forma* RDA and authorized NERC to enter into individual RDAs with each of the eight Regional Entities. The governing bodies of the Regional Entities approved their respective RDAs on the following dates: FRCC - May 14, 2015, MRO - June 18, 2015, NPCC - March 25, 2015, ReliabilityFirst -

⁶ *Order Conditionally Approving Revised Pro Forma Delegation Agreement, Revised Delegation Agreements with Regional Entities, Amendments to Rules of Procedure and Certain Regional Entity Bylaws*, 133 FERC ¶ 61,061 (Oct. 21, 2010) (“2010 RDA Order”).

⁷ Comments were submitted by the following entities or groups: (1) Edison Electric Institute; (2) Public Utility District No. 1 of Snohomish County, Washington; (3) City of Farmington, New Mexico Electric Administration; (4) Avista Corporation and Portland General Electric Company; (5) American Public Power Association and Transmission Access Policy Study Group; and (6) the Tri-State Generation and Transmission Association.

⁸ The discussion of the revisions to the *pro forma* RDA, below, includes discussion of how the comments were addressed in arriving at the revised RDA.

April 21, 2015, SERC - April 22, 2015, SPP RE - April 27, 2015, Texas RE - May 21, 2015, and WECC - June 24, 2015.

With the experience of eight years of operating under the RDAs, and with the submission of the *Five-Year ERO Performance Assessment Report*⁹ in August 2014, the ERO Enterprise continues to refine its operations to enhance the effectiveness of NERC and Regional Entity functions and programs. Unlike the comprehensive revisions to the RDAs developed by NERC and the Regional Entities and approved by FERC in 2010,¹⁰ the proposed revisions to the revised *pro forma* RDA are more limited in nature. NERC and the Regional Entities believe that the revised *pro forma* RDA will (1) enhance clarity and consistency in ERO Enterprise operations through enhanced oversight of delegation-related activities performed by the Regional Entities, and (2) provide for flexibility without diminishing NERC's oversight authority. The revised *pro forma* RDA will serve as a flexible document that accommodates changes to programmatic practices and procedures of the ERO Enterprise and generally references the NERC ROP for certain details on such practices and procedures. Further, unlike the 2010 revisions to the RDAs, the revisions to the *pro forma* RDA being submitted are not accompanied by any changes to the NERC ROP.

⁹ On November 20, 2014, FERC accepted the report, directed NERC to submit an informational filing within one year addressing certain topics, and directed or encouraged NERC to take certain additional actions to improve ERO Enterprise effectiveness and improve the performance assessment process going forward. *See Order on the Electric Reliability Organization's Five-Year Performance Assessment*, 149 FERC ¶ 61,141 (2014).

¹⁰ 2010 RDA Order.

IV. THE REVISED *PRO FORMA* RDA

This section provides a detailed description, on a section-by-section basis, of the substantive changes from the currently effective *pro forma* RDA to the revised *pro forma* RDA, as reflected in the redlined version of the *pro forma* RDA in **Attachment 2**.¹¹

A. Initial Paragraph and Recitals

The initial paragraph identifies the effective date of the revised RDAs as January 1, 2016, which will provide a seamless transition from the currently effective RDAs. In the first recital, the citation to the subsection of the Federal Power Act which establishes the purpose of the ERO is corrected.

B. Sections 1 and 7 – Definition of “Delegated Authority”

The definition of “Delegated Authority” in Section 1(c) is revised to show that a Regional Entity’s authority to propose and enforce Reliability Standards and to undertake related activities in furtherance of such delegated functions is limited to its U.S. jurisdictional boundaries identified in **Exhibit A**. This clarification is relevant to the RDAs with the Cross-Border Regional Entities (MRO, NPCC, and WECC). It is also responsive to a stakeholder request to clarify that a Regional Entity cannot enforce Reliability Standards in non-U.S. jurisdictions in the absence of delegation of authority from the non-U.S. jurisdiction and/or an agreement to this effect.¹²

Other stakeholders requested that NERC distinguish in the *pro forma* RDA between statutory delegated authority to NERC under Section 215 of the FPA and delegation-related

¹¹ In addition to the substantive changes described in this Section, the revised *pro forma* RDA also reflects several stylistic and other ministerial changes which are not discussed herein.

¹² See *Comments of Tri-State Generation and Transmission Association, Inc.* (“Tristate RDA Comments”) in **Attachment 11** available at <http://www.nerc.com/AboutNERC/Pages/Regional-Entity-Delegation-Agreements.aspx>.

activities performed by the Regional Entities. They contended that the scope of responsibilities assumed by NERC, and further delegated to the Regional Entities in the RDAs, extends beyond that contemplated in Section 215 of the FPA.¹³ The scope of NERC’s statutory authority under Section 215 has been previously litigated before FERC and resolved in the proceedings resulting in the Section 215 Order. The definition of “Delegated Authority” in the revised *pro forma* RDA, which is not substantively changed in this regard from the definition in the current RDA, encompasses authority to propose and enforce Reliability Standards pursuant to the FPA, which is authority expressly provided to the ERO in Section 215. The definition of “Delegated Authority” in the revised *pro forma* RDA (again, unchanged from the current RDA) also includes “to undertake related activities set forth in this Agreement in furtherance of these delegated functions in accordance with the Act, the [Commission’s] ERO Regulations and this Agreement.” In the Section 215 Order, FERC stated that there is a “lack of clarity in FPA Section 215 as to what ERO ‘activities’ are eligible for funding under the statute, beyond general references to ‘develop[ing] and enforc[ing] . . . reliability standards” and “conduct[ing] periodic assessments of the reliability and adequacy of the bulk-power system.”¹⁴ This, FERC stated, in turn “renders FPA Section 215 susceptible to competing interpretations.”¹⁵ FERC further concluded that FPA Section 215 allows “necessary or appropriate” activities that are done in furtherance of the functions specified in FPA Section 215.¹⁶ In the Section 215 Order, FERC

¹³ See *Comments of the Edison Electric Institute* (“EEI RDA Comments”); *Comments of Public Utility District No. 1 of Snohomish County, Washington* (“Public Utility RDA Comments”); *Comments of the City of Farmington, New Mexico Electric Administration* (“Farmington RDA Comments”); *Avista Corporation and Portland General Electric Company* (“Avista RDA Comments”); and *Tristate RDA Comments*, in **Attachment 11**; available at <http://www.nerc.com/AboutNERC/Pages/Regional-Entity-Delegation-Agreements.aspx>.

¹⁴ Section 215 Order at P 29.

¹⁵ Section 215 Order at P 29.

¹⁶ Section 215 Order at P 31.

approved, with modifications, NERC’s proposed written criteria for determining if its activities are eligible for statutory funding under Section 215 of the FPA.¹⁷ NERC believes that all of the “related activities . . . in furtherance of these delegated functions” set forth in the revised *pro forma* RDA fall within the Section 215 written criteria. Moreover, the revised *pro forma* RDA does not expand the delegated functions beyond the scope of the delegated functions provided for in the currently effective RDA.

C. Sections 2 and 5 – Provisions Related to Regional Entity Bylaws and Regional Reliability Standard Development Procedures

The currently effective RDAs contain the Regional Entity’s Bylaws in **Exhibit B** to the RDA and the Regional Entity’s RSDP in **Exhibit C** to the RDA. In the revised *pro forma* RDA, these Regional Entity documents are not included in **Exhibits B** and **C**. This change is proposed to eliminate the need to have the entire RDA submitted to the applicable governmental authorities due to changes in the bylaws or the RSDP.¹⁸ The relevant criteria for Regional Entity bylaws will continue to be included in **Exhibit B** to the RDA, and the parties agree in **Exhibit B** that the Regional Entity’s bylaws shall meet these criteria. These criteria encompass the provisions of Section 215, FERC’s ERO regulations and Order No. 672 governing delegation to Regional Entities.¹⁹ Further, Section 2(a)(i) provides that no other corporate governance documents of the Regional Entity shall be inconsistent with these criteria. These provisions memorialize in the *pro forma* RDA that the requirements of Section 215, FERC’s ERO

¹⁷ The Section 215 written criteria submitted by NERC, with the modifications directed by FERC, are set forth in the Attachment to the Section 215 Order.

¹⁸ There is an administrative efficiency benefit to eliminating a copy of the bylaws and a copy of the RSDP from the RDA: if a Regional Entity amends its bylaws or its RSDP, the amendment only needs to be submitted to the NERC Board and then to the applicable governmental authorities as an amendment to a Regional Entity Rule, and does not need to also be submitted and approved as an amendment to the RDA.

¹⁹ 18 C.F.R. § 39.8 (2015).

regulations and applicable FERC orders take precedence over any other governance document developed by NERC or the Regional Entities.

With respect to the Regional Entity’s RSDP, Section 5(a) of the revised *pro forma* RDA provides that the RSDP shall be consistent with the NERC ROP and FERC directives. This ensures that each Regional Entity maintains a process that provides reasonable notice and opportunity for public comment, due process, openness, and balancing of interests in developing Regional Reliability Standards.

The decision not to include the Regional Entity’s bylaws and RSDP as exhibits to the RDA does not change each Regional Entity’s obligation to develop or to maintain these documents, as permitted by FPA Section 215. The Regional Entity’s bylaws and RSDP remain “Regional Entity Rules” as defined in FERC’s ERO regulations; accordingly, a Regional Entity must still obtain NERC and FERC approval of changes to these documents before they take effect.²⁰ In addition, new Section 3(b) of the RDA specifies that the Regional Entity shall provide NERC with a copy of its Regional Entity Rules upon NERC’s request.

The revised *pro forma* RDA also contains a new Section 2(b)(iii) specifying that NERC will comply with its Certificate of Incorporation, Bylaws, and ROP.

D. Sections 3 and 8 – Oversight of Performance of Delegated Functions and Related Activities

In Section 3, General Covenants, a new Section 3(e) is included to clarify the scope of and limits on NERC and Regional Entity collaboration in executing NERC’s statutory authority and delegation-related activities. This provision memorializes that collaboration occurs to develop guidance, policies and procedures, and oversight parameters. This new subsection

²⁰ See Section 5(a).

further states that in the event collaboration is not successful, the NERC President may issue a directive on the matter pursuant to Section 8, which shall be binding on the Regional Entity.²¹ NERC’s directive authority in Section 8 of the RDA is an essential tool for enforcing consistency throughout the ERO Enterprise and addresses stakeholder concerns that a Regional Entity could “veto” a policy or other decision made by NERC.²²

E. Section 4 – Delegation of Authority

In Section 4(d), the term “governmental authorities” is replaced with the term, “Applicable Governmental Authority” (“AGA”), which is a defined term in the NERC ROP, in order to clarify that when a non-U.S. AGA delegates authority to a Regional Entity, the relationship between that non-U.S. AGA and the Regional Entity is governed either by a separate agreement or by the laws and regulations of the non-U.S. AGA.

F. Section 6(a)

Section 6(a) addresses the ability of each Regional Entity to enforce Reliability Standards within the boundaries set forth in **Exhibit A** to the RDA through the CMEP. Section 6(a) is revised to clarify that the CMEP authority is not limited to a Regional Entity’s geographic boundaries, but may include the geographic boundaries of another Regional Entity in cases involving MRREs (Section 4(c)) and/or cases where a Regional Entity performs CMEP activities outside of its geographic boundaries pursuant to Section 6(f).

²¹ Stakeholder concerns about collaboration at the expense of NERC’s ultimate decision-making authority (*see* EEI RDA Comments; Avista RDA Comments) are further addressed in revisions to Section 8.

²² *See* EEI RDA Comments.

G. Currently Effective Sections 6(b)-6(g); Proposed Sections 6(c)-(d) – Compliance Monitoring and Enforcement

During the five-year period covered by the *Five-Year Performance Assessment Report*,²³ NERC and the Regional Entities initiated implementation of the risk-based approach to compliance monitoring and enforcement. This risk-based approach is designed to increase efficiency, transparency, and consistency in compliance monitoring and enforcement activities across the ERO Enterprise. In the revised *pro forma* RDA, Section 6 is rewritten to delete provisions that are either out-of-date or duplicative of CMEP provisions in the NERC ROP. Section 6 also cross references the NERC ROP, in order to incorporate and make applicable recent and future improvements to the risk-based CMEP.²⁴ However, the proposed revisions to Section 6 do not change NERC’s authority to review, and where appropriate, to approve, the Regional Entity’s dispositions of noncompliances with Reliability Standards. NERC’s authority to maintain oversight over all identified noncompliance, regardless of disposition method, is neither forfeited nor lessened.²⁵ Finally, the revisions to Section 6 are also consistent with the objective of NERC and the Regional Entities to create a more streamlined, flexible, and forward-looking RDA that can accommodate future changes in CMEP practices and procedures without the need to amend the RDAs.

²³ See Five-Year ERO Performance Assessment Report at Section II.C and Attachment 3.

²⁴ Proposed changes to the NERC ROP reflecting these risk-based practices are pending NERC Board approval. The contents of currently effective Sections 6(b)-(g) are addressed in CMEP §3.0 (Compliance Monitoring Processes); CMEP § 3A.0 (Enforcement Discretion); CMEP § 8.0 (Reporting and Disclosure); and § 9.0 (Data Retention and Confidentiality); see also ROP § 403 (Required Attributes of Regional Entity Compliance Monitoring and Enforcement Programs), and ROP § 1500 (Confidential Information). Some of these sections of the NERC ROP will be submitted to FERC for approval in July 2015.

²⁵ See EEI RDA Comments; APPA/TAPS RDA Comments; Farmington RDA Comments.

H. Currently Effective Section 6(i) and Proposed Section 8(f) – NERC Audits of Regional Entities

In the revised *pro forma* RDA, provisions regarding NERC’s obligations regarding Regional Entity oversight are consolidated in Section 8. In connection with this consolidation, currently effective Section 6(i), which requires NERC to audit Regional Entity CMEP activities at least every five years, is eliminated. Instead, this audit requirement, pursuant to Section 402.1.3 of the NERC ROP, will be encompassed in revised Section 8(f), which provides for NERC reviews of the Regional Entity’s performance of all delegation-related activities, not just CMEP activities:

NERC may perform reviews of [REGIONAL ENTITY] on a reasonable periodicity to determine [REGIONAL ENTITY’S] compliance with this Agreement, any policies or procedures established by NERC, NERC’s Rules of Procedure, the Compliance Monitoring and Enforcement Program, Commission requirements, and directives that are in effect pursuant to Section 8(c) and to monitor the implementation of guidance and directions issued by the NERC Board of Trustees pursuant to Section 8(d). All such periodic reviews shall comply with the NERC Rules of Procedure and Commission directives.

Under revised Section 8(f), NERC retains the flexibility to review the performance of the Regional Entities “on a reasonable periodicity.” This flexibility recognizes NERC’s continuing oversight of Regional Entity activities. All such periodic reviews need to comply with the NERC ROP and FERC directives.²⁶

I. Proposed Section 6(f)

Proposed new Section 6(f) of the *pro forma* RDA incorporates into the *pro forma* RDA language that is currently in certain individual RDAs. This provision specifies that one Regional

²⁶ Contrary to the suggestion in the EEI RDA Comments, NERC is not proposing to eliminate its obligation to review Regional Entity compliance monitoring and enforcement programs.

Entity may perform CEA functions on behalf of another if there is a conflict of interest (e.g., a Regional Entity that performs registered functions or that is an affiliate of a registered entity). Such CEA activities will be performed pursuant to a contract between the Regional Entities that is approved by both NERC and FERC. This provision will only be included in the RDAs of Regional Entities that are performing CEA activities for the registered functions of another Regional Entity or its affiliate. This provision is distinct from and should not be confused with the approval process for MRRE arrangements. MRRE arrangements are addressed in Section 4(c) and were created as part of a comprehensive Coordinated Oversight Program that streamlines risk assessment, compliance monitoring and enforcement, and event analysis activities for MRREs. Under this program, Regional Entities coordinate oversight responsibilities for MRREs. Regional Entities coordinating in this fashion enter into a “Regional Entity Coordinated Oversight Memorandum of Understanding” that requires NERC approval. NERC does not propose any changes to the RDA language authorizing Regional Entities to enter into MRRE arrangements pursuant to Section 4(c). These agreements are different from agreements whereby one Regional Entity assumes CEA responsibilities for a reliability function for which another Regional Entity is a registered entity. In contrast to a Regional Entity Coordinated Oversight Memorandum of Understanding, proposed Section 6(f) provides that CMEP arrangements by which one Regional Entity performs CMEP responsibilities over another Registered Entity’s registered activities require both NERC and FERC approval. Proposed new Section 6(f) separately delineates the approval processes for these two types of Regional Entity agreements.²⁷

²⁷ Specifics regarding the implementation of the MRRE program are not addressed in the RDAs. In NERC’s March 2, 2015 posting of the redlined, *pro forma* RDA, NERC noted that it was updating “provisions to reflect current practices regarding the Compliance Monitoring and Enforcement Programs . . . as well as the creation of Multi-

J. Sections 7 (Delegation-Related Activities) and 8 (Oversight of Performance of Delegated Functions and Related Activities) – Additional Oversight Tools

Sections 7 and 8 of the *pro forma* RDA have been revised to enhance NERC’s existing authority to periodically assess the Regional Entities’ compliance with their duties and responsibilities. Specifically, under these revised sections, policies and procedures developed from time to time must also be complied with by the Regional Entities and compliance is subject to NERC review. NERC will also monitor the Regional Entities’ implementation of guidance and directives. This monitoring is not subject to any specific auditing schedule under the NERC ROP, but rather is conducted as part of NERC’s oversight. ERO Enterprise policies and procedures, guidance and directives are important tools for consistency across the ERO Enterprise’s activities and its interactions with registered entities. Consistent with the Section 215 Order, the scope of the policies, procedures, guidance and directives is limited to “necessary or appropriate” activities that are done in furtherance of the functions specified in FPA Section 215.²⁸ The policies and procedures contemplated by Sections 7 and 8 will continue to be developed through a collaborative process (as the collaborative process is provided for in Section 3(e) of the revised *pro forma* RDA), and would address routine, program-related activities of the ERO Enterprise that are not otherwise covered in the NERC Bylaws and NERC ROP. The authority to create policies and procedures for delegated activities provides NERC with a flexible mechanism to ensure consistency and improve efficiency across the ERO Enterprise with respect to individual areas of delegated authority.

Regional Registered Entities.” This statement was interpreted by some stakeholders as indicating an intention to revise elements of the MRRE program (*see* EEI RDA Comments); however, any such effort would occur (were it to occur) outside the RDAs.

²⁸ *See* EEI RDA Comments; Avista RDA Comments.

Some stakeholder comments requested that NERC develop ERO policies and procedures as amendments to the NERC ROP and thereby provide for stakeholder input and opportunity for notice and comment.²⁹ However, NERC believes that it has in the past, and continues, to involve stakeholders in the development of policies and procedures that significantly impact registered entities (for example, in the development of the Find, Fix, Track and Report program). Further, in addition to amendments to the ROP, pursuant to FERC's ERO regulations, stakeholders are provided with notice and opportunity to comment on the development of new or revised Reliability Standards,³⁰ the development of an annual business plan and budget,³¹ the resolution of a conflict between a Reliability Standard and a FERC order,³² the imposition of a penalty for a violation of a Reliability Standard,³³ the approval of a new or amended RDA,³⁴ and the adoption of a changes to the NERC bylaws.³⁵ Additionally, stakeholder participation in the adoption of many internal policies and procedures occurs through participation in or following the activities of NERC Board or standing committees such as the Compliance and Certification Committee and the Personnel Certification Governance Committee. In cases where an ERO policy or procedure is presented for NERC Board adoption or approval, it is posted in advance of the Board meeting as part of the Board agenda package and discussed at open meetings. Finally, policies and procedures that are filed with FERC for approval are subject to notice and comment

²⁹ See EEI RDA Comments.

³⁰ 18 C.F.R. § 39.3(b)(2)(iv) (2015).

³¹ 18 C.F.R. § 39.4(c) (2015).

³² 18 C.F.R. § 39.6(b) (2015).

³³ 18 C.F.R. § 39.7(c) (2015).

³⁴ 18 C.F.R. § 39.8(b) (2015).

³⁵ 18 C.F.R. § 39.10 (2015).

periods established by FERC.³⁶ It would be administratively inefficient, and an unnecessary use of resources, if the ERO were to engage stakeholders in a formal notice and comment period for every policy and procedure adopted by the ERO in furtherance of its authority. Such an approach would, in FERC's words, "tax the resources of the ERO and take the focus away from its primary function of ensuring the reliability of the Bulk-Power System."³⁷

K. Section 9 – Funding

Subsection 9(i) of the *pro forma* RDA requires the Regional Entity to submit audited financial statements annually to NERC. Current Section 9(i) requires the audited financial statements to be submitted by May 1 of the following year. This deadline was originally established to enable NERC to prepare and file the annual NERC and Regional Entity budget to actual cost true up report to the applicable governmental authorities by May 30. However, Regional Entities occasionally experience delays in obtaining their audited financial statements for the previous year, often due to circumstances beyond their control, such as scheduling or resource issues experienced by their independent auditors. Section 9(i) is being revised to eliminate the May 1 deadline as a legally binding requirement, and to instead permit the Regional Entity to submit its audited financial statement for the preceding year by a later date, agreed to in writing by NERC, so long as this later date enables NERC to timely prepare and file the required annual budget to actual costs true up filing to the applicable governmental authorities by May 30. For budget planning purposes, NERC will continue to ask Regional Entities to submit their audited financial statements by May 1, subject to exceptions in individual cases as permitted by revised Section 9(i).

³⁶ 18 C.F.R. § 39.10 (2015).

³⁷ See Order No. 672 at P 186.

L. Section 12 – Term and Termination

The revised *pro forma* RDA provides a high-level framework for the ERO Enterprise's operations and should not contain much of the programmatic detail included in previous iterations of the RDA. NERC and the Regional Entities intend for the *pro forma* RDA to serve as a streamlined, flexible, and forward-looking document that does not require substantial revisions at the expiration of each term, absent any material change in the ERO Enterprise's operations. Changes in the ERO Enterprise's strategic plan and programmatic focus should be reflected in the NERC ROP and in NERC policies and procedures. Given this new direction and the limited changes expected from year to year, NERC and the Regional Entities propose an initial five-year term for the RDAs (same as the current RDAs), with an automatic five-year renewal upon the expiration of the first five-year term, provided neither party provides notice of intent to terminate. The latter provision enables either party to opt out of the automatic extension (and of the current provisions of the RDA) by providing notice of its intent to terminate no later than one year prior to the then effective expiration of the immediate term. This is a very typical renewal provision in contracts and has the practical effect of allowing parties to seek to renegotiate provisions at the end of the five-year term, should they see a need to do so, by exercising the notice of termination provision one year in advance of the expiration of the term.

The provision in Section 12(b) of the currently effective RDAs preconditioning the successive five-year renewal of the RDAs on the completion of a five-year audit of the Regional Entities is being eliminated as unnecessary. NERC and the Regional Entities view this provision as unnecessary given (1) NERC's continuous oversight of the Regional Entities, and (2) the current sequence of completing the five-year ERO performance assessments in relation to the expiration of the end of the five-year term of the RDA – the next 5-year ERO performance

assessment is due to be completed in July 2018, 17 months prior to the end of the five-year term of the revised RDAs in December 2020 and only a few months before a one-year notice to terminate the RDA would have to be given and negotiations towards revisions to the RDA would need to begin. NERC emphasizes that a review of the RDA provisions will be a component of future performance assessments.

Further, as provided in Section 8 of the RDA, NERC possesses the necessary tools to address any areas of unsatisfactory performance by the Regional Entities. NERC performs reviews of Regional Entity performance on a reasonable periodicity in compliance with the NERC ROP, Commission directives, and revised Section 8(f) of the RDAs. NERC will continue to perform Commission-mandated five-year performance assessments of the Regional Entities and to evaluate compliance with the RDAs as part of this process.

M. Sections 14 and 15 – Confidentiality and Third-Party Beneficiaries

Under NERC ROP Section 1502, “Confidential Information” includes information received by NERC or a Regional Entity from an owner, operator or user of the Bulk Power System, or any other party, that the submitting party reasonably believes contains “Confidential Information” as defined in NERC ROP Section 1501. The focus of NERC ROP Section 1500 is the handling of Confidential Information vis-à-vis parties outside of the ERO Enterprise. However, during development of the revised *pro forma* RDA, NERC and the Regional Entities identified an opportunity to clarify both (i) the variety of confidential information shared among the business units of the ERO Enterprise in exercising their Delegated Authority, as well as (ii) the handling of such information within the ERO Enterprise. The scope of confidential information under the *pro forma* RDA extends beyond the categories identified in NERC ROP

Section 1501.³⁸ Revised Sections 14, 15(c) and 15(d) of the RDA are intended to eliminate the need for ERO business units to draft ad hoc non-disclosure agreements as part of the ERO Enterprise’s daily activities (e.g., for committee work) by recognizing NERC and each Regional Entity as third-party beneficiaries of each RDA confidentiality provision. This third-party beneficiary right gives NERC and each Regional Entity an opportunity to take any action necessary to address a violation of this provision, following notification to the Applicable Governmental Authority, subject to the limitation of liability provision in Section 13.³⁹ NERC emphasizes that even under the language in revised Section 15, NERC and the Regional Entities remain subject to the obligations to protect registered entity and other third-party “Confidential Information” as defined in NERC ROP Section 1500.⁴⁰

In addition, new Section 15(b) adds a common contractual provision specifying circumstances in which an obligation of confidentiality does not apply.

N. Section 20 – Governing Law

The governing law for the RDA, and the agreed venue for actions arising out of the RDA (that are not presided over by FERC), is changed from New Jersey to Georgia to reflect the move of the ERO’s principal place of business to Georgia.

³⁸ NERC ROP Section 1501 deals with Confidential Business and Market Information, Critical Energy Infrastructure Information, personal information, work papers, investigative files, including any records produced for or created in the course of an investigation, or Cyber Security Incident Information.

³⁹ See NERC ROP § 1206.

⁴⁰ Stakeholders sought three clarifications regarding the scope of “confidential information” in the *pro forma* RDA: (1) how it compares to the definition and obligations in NERC ROP § 1500; (2) whether it covers registered entity information; and (3) whether registered entities should be included as third-party beneficiaries of each Regional Entity RDA. See EEI RDA Comments.

O. Exhibit B – Governance

As described above, in the revised RDA, a copy of each Regional Entity’s bylaws will not be included in **Exhibit B**, but the criteria for the bylaws will continue to be included.

P. Exhibit C – Regional Standard Development Procedure

As described above, in the revised RDA, a copy of each Regional Entity’s RSDP will not be included in **Exhibit C**. In addition, the listing of the common attributes for Regional Entity RSDPs will also be eliminated. The listing of the common attributes is viewed as unnecessary because the NERC ROP contains the current requirements for development of Regional Reliability Standards, and each Regional Entity’s RSDP must comply with the requirements in the NERC ROP.

Q. Exhibit D – Compliance Monitoring and Enforcement Program

Section 2.0 of **Exhibit D** is revised to recognize the variety of hearing bodies that exist at the Regional Entities, as including not only the Regional Entity board or a balanced compliance panel reporting directly to the Regional Entity board, but also a committee of the board or an independent hearing panel. Each of these structures is acceptable and appropriate for the composition of a Regional Entity hearing body.

V. REVISED DELEGATION AGREEMENTS WITH REGIONAL ENTITIES

This section provides an overview of the differences between the currently effective individual Regional Entity RDAs and the revised Regional Entity RDAs in **Exhibit A** (Regional Boundaries), **Exhibit D** (Compliance Monitoring and Enforcement Program), and **Exhibit E** (Funding). Due to the limited substantive differences between the currently effective Regional Entity RDAs and the revised RDAs, this filing is providing the redlined, revised text showing

these differences as part of the discussion below. The FRCC RDA includes a separate attachment (**Attachment 3C**) showing all proposed differences to **Exhibit E** from the currently effective RDA **Exhibit E**.

All differences between the revised *pro forma* RDA and the revised individual Regional Entity RDAs are provided in **Attachments 3B, 4B, 5B, 6B, 7B, 8B, 9B, and 10B** for, respectively, FRCC, MRO, NPCC, ReliabilityFirst, SERC, SPP, Texas RE, and WECC. These differences reflect the customization of the RDA for each Regional Entity and include differences in individual Regional Entity RDAs that were previously submitted. Therefore, these changes are not discussed extensively below, but are listed in **Attachment 12**.

A. FRCC

This section identifies differences between the currently effective FRCC RDA and the revised FRCC RDA. First, **Exhibit A** is updated and revised to provide a more succinct description of FRCC's boundaries:

The FRCC physical boundaries of the Florida Reliability Coordinating Council, Inc. (FRCC) are entirely within the geographic boundaries of the State of Florida. The area of the State of Florida that is within the FRCC Region is comprised of peninsular Florida east of the Apalachicola River with the exception of a small section of Baker and Nassau counties in northeast Florida (Baker and Nassau counties). Areas west of the Apalachicola River in Florida are within the SERC Region. The entire FRCC Region is within the Eastern Interconnection and -
~~The entire FRCC Region is under the direction of the FRCC Reliability Coordinator.~~

The FRCC Region interconnects with the SERC Region via 10-12 transmission lines. The 10-12 lines consist of two 500 kV, four 230 kV and four six 115 kV lines. These lines are referred to as the "Florida/Southern Interface".

The areas, noted above, in northeast Florida (part of Baker and Nassau counties) are served by that are not part of the FRCC Region are part of the SERC Region. These sections are part of the Okefenokee Rural Electric Membership Corporation (OREMC),

a member of the Georgia System Operations Corporation, and also include the Georgia Transmission Corporation (GTC) facilities physically located in Baker County, Florida, that is headquartered in Nahunta, GA. Roughly two thirds of OREMC load is in Georgia and one third is in Florida. The majority of the OREMC load in Florida is connected directly to the Southern Company Balancing Area in the SERC Region. A small portion of the OREMC load, about five MW, is supplied as a radial feed from FPL West Nassau Substation. OREMC has secured firm transmission service from JEA on the Florida / Southern Interface to supply this load. The OREMC schedules energy on an hourly basis to cover this load. SERC will be responsible for registration and compliance monitoring of OREMC. These areas are considered to be part of the SERC Reliability Corporation (SERC). SERC is responsible for registration and compliance monitoring of OREMC and the GTC facilities in Baker and Nassau Counties, Florida.

Second, SERC is the CEA for FRCC's registered functions pursuant to an agreement between SERC and FRCC; the date of SERC-FRCC agreement is removed in **Exhibit D** so that the CEA agreement is generally identified without reference to a specific date, which may change from time to time as the CEA agreement is revised or renewed going forward:

Within the FRCC Region, compliance monitoring and enforcement functions with respect to reliability functions for which ~~the FRCC~~ is a registered entity are performed by ~~SERC Reliability Corporation (SERC)~~ pursuant to a contract between FRCC and SERC ~~dated as of July 12, 2010.~~

Third, there are three sets of revisions to Section 6 of **Exhibit E** from the currently effective FRCC RDA. First, **Exhibit E** is revised to provide a consolidated summary of the FRCC Member Services Division, which provides non-statutory services for the FRCC region, as well as of the FRCC Planning Committee and Operating Committee, which are FRCC standing committees which provide oversight of these services. Second, Section 6(i) is revised to clarify that FRCC maintains separate accounts for statutory and non-statutory funding revenues. Finally, in Section 6(ii), the description of how FRCC separately records costs so that no statutory funds are used to pay for non-statutory expenses, and vice versa, is revised. See

Attachment 3C to this filing for a redline of the currently-effective FRCC RDA **Exhibit E** to the proposed FRCC RDA **Exhibit E**.

As stated above, **Attachment 3B** to this filing shows the differences between the revised *pro forma* RDA and the revised FRCC RDA.⁴¹

B. MRO

The only changes from the currently effective MRO RDA to the revised MRO RDA are in **Exhibit A**. **Exhibit A** is revised to reflect the most current load data for MRO and to use more consistent terminology. Specifically, the term “terawatt hours” is replaced with “megawatt hours.”

As stated above, differences between the revised *pro forma* RDA and the revised MRO RDA are shown in **Attachment 4B**.⁴²

C. NPCC

The only changes from the currently effective NPCC RDA to the revised NPCC RDA are in Section 3.0 (Other Decision Making Bodies) of **Exhibit D**, where more flexible language is introduced that accommodates risk-based enforcement practices:

NPCC Management, based on the review and recommendations of Compliance Staff, will be the sole decision making body to review and make final determinations on each potential noncompliance identified by any means. ~~compliance submittals from Registered Entities related to Self-Certification; Self-Reporting; Exception Reporting; and Periodic Data Submittals. NPCC Compliance Staff will initially review all submittals received to assure that the information forwarded is accurate and complete. This process will be conducted by the staff members and may require contact via e-~~

⁴¹ Several of the provisions that differ from the revised *pro forma* RDA have already been approved by FERC and are incorporated into the revised FRCC RDA.

⁴² Several of the provisions of the MRO RDA that differ from the revised *pro forma* RDA have already been approved by FERC and are incorporated into the revised MRO RDA.

~~mail or phone to confirm information. If after, initially receiving a compliance submittal, the Compliance Staff identifies an instance of non-compliance, a Notice of Possible Violation (NOPV), without penalty, is issued to the registered entity and NERC while the Compliance Staff continues its more detailed and comprehensive review of the submittal. It is during this review that the Compliance Staff confirms the violation, calculates an appropriate penalty or sanction and issues a Notice of Confirmed Violation (NOCV).~~

As stated above, differences between the revised *pro forma* RDA and the revised NPCC RDA are shown in **Attachment 5B**.⁴³

D. ReliabilityFirst

There are no proposed changes to the currently effective ReliabilityFirst RDA.

E. SERC

The only change from the currently effective SERC RDA to the revised SERC RDA is in **Exhibit D**. Consistent with an earlier change to the SERC Bylaws,⁴⁴ the bullet point in Section 2.0 of **Exhibit D** relating to representation of the “ISO-RTO/Customer Sector” now refers to the “ISO-RTO Sector.”

As stated above, differences between the revised *pro forma* RDA and the revised SERC RDA are shown in **Attachment 7B**.⁴⁵

F. SPP RE

This section identifies changes from the currently effective SPP RE RDA to the revised SPP RE RDA. The changes from the currently effective SPP RE RDA are in **Exhibits A and E**.

⁴³ Several of the provisions of the NPCC RDA that differ from the revised *pro forma* RDA have already been approved by FERC and are incorporated into the revised NPCC RDA.

⁴⁴ *North American Electric Reliability Corporation*, Docket Nos. RR14-3-000 (Jul. 29, 2014) and RR12-5-000 (Jun. 12, 2012) (unpublished delegated letter orders).

⁴⁵ Several of the provisions of the SERC RDA that differ from the revised *pro forma* RDA have already been approved by FERC and are incorporated into the revised SERC RDA.

In **Exhibit A**, the square mileage description of SPP RE's footprint is updated, as well as the names of the servicing utilities. The map in **Exhibit A** is updated to reflect current geographic boundaries.⁴⁶ In addition, SERC is the CEA for SPP's registered functions pursuant to an agreement between SPP and SERC; the placeholder for the date of this agreement is removed so that the CEA agreement is generally identified without reference to a specific date, which may change from time to time as the CEA agreement is revised or renewed going forward.

In **Exhibit E**, Sections 6(i) (Separation of Funding Sources for Statutory Activities and Non-Statutory Activities) is revised so that the SPP RE Board of Trustee Chairman is authorized to approve funds withdrawal from the SPP RE bank account in the event the SPP RE General Manager is unavailable to do so. A parallel change is made to Section 6(ii). The relevant portion of Section 6(i) is revised as follows:

Throughout the year, as expenses incurred for SPP statutory activities are paid from the SPP operating account, transfers are made from the account established solely to receive and hold funding received from NERC to the SPP operating account in the amounts of payments made for expenses incurred for SPP statutory activities. The RE General Manager shall have ~~sole~~ primary authority to approve all withdrawal of funds from the SPP Regional Entity bank account. In the event the SPP RE General Manager is unavailable to authorize a funds withdrawal, the SPP RE Board of Trustee Chairman may authorize the withdrawal.

Also in **Exhibit E**, Section 6(ii) (Separation of Costs of Statutory Activities and Non-Statutory Activities), the calculation of overhead charges relating to support services (i.e., office space, security, human resources, accounting, and information technology) provided to SPP RE by SPP has been revised. The method of calculating the SPP overhead charge has been revised to a primarily fixed charge in order to better represent SPP RE's utilization of these services and

⁴⁶ Sharyland Utilities, L.P. (NCR04119), located just south of the Texas Panhandle, transferred registration from SPP RE to Texas RE at the end of 2013. This transfer removed approximately 5,000 miles from SPP RE's regional boundaries.

the cost incurred by SPP for providing these services. Under the currently effective SPP RE RDA, 100% of the overhead charges varies with the cost allocated to SPP RE direct staff and engineering shared staff's annual working hours spent performing statutory activities. This approach led to wide fluctuations in the hourly charge rate and the total amount of the charge from year to year due to changes in the number and hours of staff recording time on work for the SPP RE. A moderate headcount change within SPP RE or SPP should not have a significant impact on the cost of these services charged to SPP RE. Under the revised calculation method, costs will now be allocated through measures that are less variable from year to year (such as square footage, number of devices, and headcount). Further, the annual costs will be apportioned on a monthly basis.

As noted above, Section 6(ii) of **Exhibit E** has also been revised to provide the SPP RE Board of Trustee Chairman with the ability to authorize a funds transfer in the event the SPP RE General Manager is unavailable. Thus, Section 6(ii), Separation of Costs of Statutory Activities and Non-Statutory Activities, has been revised as follows:

(ii) Separation of costs of statutory activities and non-statutory activities. All employees performing functions directly attributed to SPP's delegated responsibilities who also perform functions related to SPP's non-statutory activities will utilize a time tracking system to accurately reflect their time spent on statutory activities. ~~Periodically, but no less frequently than annually~~ On a monthly basis, SPP will input the time associated with its direct function staff performing statutory activities into a cost calculation model. ~~Specific~~, Specifically, direct costs attributable to the direct function staff performing statutory activities are salary, SPP-paid medical insurance, Medicare and Social Security taxes, and other SPP-paid benefits.

In addition, an allocation of SPP overhead costs to statutory activities is calculated and the allocated overhead costs are recorded on the NERC Statement of Activities. These overhead costs are shared throughout the SPP organization and include costs for facilities, payroll and accounts payable processing, human

resources and benefits management, accounting, information technology, executive leadership, corporate affairs and communications, office costs and other support services and expenditures. This allocation is ~~calculated using a standard hourly rate multiplied by the number of SPP staff hours spent directly performing SPP's statutory activities. The hourly rate for allocated overhead costs is developed using SPP's current year expenses, by separating~~ developed on an annual basis and apportioned monthly using SPP's current year expenses by allocating SPP's shared services support costs which support all of SPP's functions (i.e., the costs for the activities identified in the second sentence of this paragraph) from SPP's operational resource pool. ~~The total indirect costs are then divided by estimated total annual available work hours for SPP's operational resource pool. The average annual employee utilization rate assumes each employee works an eight hour work day with adjustments to reflect SPP's employment policies related to vacation allotment, SPP holidays and other non-productive leave by an appropriate measure (headcount, square footage, number of devices, etc.). An allocation of SPP overhead costs will also be added to the directly assignable staff's hourly rate for those employees performing SPP's statutory activities identified in the first paragraph of this section.~~

The total expenses for statutory activities in a month as recorded on the NERC Statement of Activities are used to determine the amount of transfer to be made to the SPP operating account to reimburse the SPP operating account for the payment of expenses of SPP's statutory activities. The RE General Manager shall have sole primary authority to approve all withdrawal of funds from the SPP Regional Entity bank account. In the event the SPP RE General Manager is unavailable to authorize the funds transfer, the SPP RE Board of Trustee Chairman may authorize the funds transfer.

As stated earlier, differences between the revised *pro forma* RDA and the revised SPP RDA are shown in **Attachment 8B**.⁴⁷

⁴⁷ Several of the provisions of the revised SPP RDA that differ from the revised *pro forma* RDA have already been approved by FERC. NERC further notes the change to the name of the SPP market provision in **Exhibit E** Section 6 (Budget and Funding for SPP's Non-Statutory Activities) to Integrated Marketplace.

G. Texas RE

This section identifies changes from the currently effective Texas RE RDA to the revised Texas RE RDA. The changes are in **Exhibits A, D** and **E**.

In **Exhibit A**, the geographic boundaries of the ERCOT region are updated due to the addition of the Competitive Renewable Energy Zone (“CREZ”) transmission lines as well as the percentage of Texas load served. In **Exhibit D**, the description of the Texas RE hearing body is updated to clarify that Texas RE does not have a compliance committee and that the hearing body is comprised of only a portion of the board, as follows: “~~compliance committee of the board~~ comprised of ~~all or~~ a portion of the Texas RE Directors, with a majority of independent directors.”

Section 2.0 of **Exhibit D** has also been revised to reflect language in the recently adopted Texas RE Hearing Body Charter.⁴⁸ Section I.B of the Texas RE Hearing Body Charter states that “[h]earings shall be conducted in accordance with the then-current Attachment 2, Hearing Procedures to the NERC [CMEP]” and that the purpose of the charter is to clarify and to supplement the Hearing Procedures.⁴⁹ The following supplemental terms of the Texas RE Hearing Body Charter are therefore added to Section 2.0 of **Exhibit D** as deviations from the Hearing Procedures:

To the extent required in the Rules of Procedure, **Texas RE** shall conduct all compliance hearings in which a Registered Entity may contest a finding of alleged violation, proposed penalty or sanction, proposed Mitigation Plan, or a proposed Remedial Action Directive, in accordance with Attachment 2, Hearing Procedures, to the NERC Compliance Monitoring and Enforcement Program,

⁴⁸ See Texas RE Hearing Body Charter (approved June 2014) available at <http://www.texasre.org/CPDL/Hearing%20Body%20Charter%20Approved%20-%202024June2014.pdf>.

⁴⁹ Texas RE Hearing Body Charter at Section 1.B (Purpose).

subject to the following deviations, ~~if any: None.~~ as set forth in the Texas RE Hearing Body Charter:

A. The Hearing Body will attend the evidentiary hearing so that the members can hear and weigh the evidence presented and assess the credibility of the witnesses.

B. Following post-hearing briefing, the Hearing Body will convene to deliberate and make an initial determination of the disputed issues based on the evidence admitted during the proceedings. The Hearing Body will issue an Initial Opinion reflecting the decisions of the Hearing Body in accordance with the Hearing Procedures.

These changes also reflect two ways in which the Texas RE Hearing Body will more actively participate in the decision-making process. First, whereas Section 1.4.3 of the NERC ROP Hearing Procedures provides that members of the Hearing Body may, but are not required to, attend the evidentiary hearing, Section III.D of the Texas RE Hearing Body Charter requires such attendance. Second, whereas Section 1.7.4 of the NERC ROP Hearing Procedures provides that the Hearing Officer shall prepare an initial opinion for the Hearing Body's review and consideration, Section III.E of the Texas RE Hearing Body Charter provides that the Hearing Body shall work with the Hearing Officer to prepare the initial opinion. These clarifications were adopted by the Texas RE board to reflect lessons learned from experience gained in conducting a contested hearing.

Section 6 (Budget and Funding for Texas RE's Non-Statutory Activities) in **Exhibit E** to the revised Texas RE RDA includes a description of the non-statutory activities performed by Texas RE. This language has been streamlined to more accurately reflect the non-statutory activities undertaken by Texas RE on behalf of the Public Utility Commission of Texas, as follows:

In addition to its delegated functions and related activities, as specified in Sections 5, 6 and 7 of the Agreement and in Section 1 of this Exhibit E (such delegated functions and activities referred

to in this Section 6 as “statutory activities”), Texas RE performs the following other functions and activities (such other functions and activities being referred to in this Section 6 as "non-statutory activities"):

~~Texas RE will audit and investigate~~ performs non-statutory activities as the ERCOT region Reliability Monitor on behalf of the Public Utility Commission of Texas (“PUCT”). As the Reliability Monitor, Texas RE audits and investigates market participants’ compliance with ERCOT Protocols and Operating Guides (ERCOT regional rules), as the ERCOT region Reliability Monitor, through a continuation of its contract with the Public Utility Commission of Texas (the “PUCT”, which directs the work) and ERCOT (the independent system operator, which makes the required contractual payment from its system administration fee), for at least an additional three year period ending December 31, 2013. Under this contract, Texas RE will continue to report reports possible non-compliance with reliability-related regional rules to the PUCT and will respond to subpoenas and provide, and provides testimony and support to the PUCT regarding contested in enforcement cases prosecuted by the PUCT. These non-statutory activities are subject to continuation at the end of the contract term by mutual agreement by funded through the ERCOT ISO system administration fee and payment to Texas RE and is authorized by the PUCT. If the decision is made to terminate or not renew this contract in the future, Texas RE would perform reduced non-statutory activities for a period of time, under a modified contract, to transition these activities to a third party.

As stated earlier, differences between the revised *pro forma* RDA and the revised Texas RE RDA are shown in **Attachment 9B**.⁵⁰

H. WECC

This section identifies changes from the currently effective WECC RDA to the revised WECC RDA. The changes occur in **Exhibits D** and **E**.

⁵⁰ Several of the provisions that differ from the revised *pro forma* RDA have already been approved by FERC and are incorporated into the revised Texas RE RDA.

The revisions to **Exhibit D** are as follows:

In Section 2.0 (Regional Hearing of Compliance Matters), the description of the Compliance Hearing Body is shortened and summarized and will include a reference to the WECC Compliance Hearing Body Charter.⁵¹ Additional details are also included regarding the composition of the Compliance Hearing Body as well the appointment of hearing panels. These revisions to Section 2.0 are shown here:

WECC's hearing body is the Compliance Hearing Body, as established under a committee of the WECC Compliance Hearing Body Charter Board comprised solely of directors, as set forth in the WECC Compliance Hearing Body Charter.

~~Under the Compliance Hearing Body Charter, the Compliance Hearing Body consists of Class A and Class B members. Class A members are WECC non-affiliated directors, personnel employed by WECC Members who are not engaged in the Electric Line of Business, and consultants who meet the same standards of independence required by the WECC Bylaws for non-affiliated directors. Class B members are personnel employed by WECC Members engaged in the Electric Line of Business or who are otherwise affiliated with such Members. For each hearing, the Chair of the Compliance Hearing Body selects a five member Hearing Panel (or a three member Hearing Panel if the parties to the hearing agree) with a majority consisting of Class A members, with at least two members (one member of a three member Hearing Panel) having technical knowledge of electric industry systems.~~

Consistent with the WECC Compliance Hearing Body Charter, hearing panels for individual matters will include directors and may include industry subject matter experts. No industry representative or member class shall control the outcome.

Section 2.0 has also been revised to reflect that WECC has adopted Attachment 2, Hearing Procedures, to the NERC ROP, without any deviations. Adoption of the NERC ROP

⁵¹ See WECC Compliance Hearing Body Charter (revised April 15, 2015) available at <https://www.wecc.biz/Administrative/Revised%20CHB%20Charter.pdf>.

brings WECC into line with each of the other Regional Entities while maintaining all due process rights for entities requesting a hearing. As a result, the former WECC Hearing Procedures, which appear as Attachment 2 to **Exhibit D** to the current WECC RDA, are not included in **Exhibit D** to the revised WECC RDA.

Section 3.0 (Other Decision Making Bodies) is revised to clarify that WECC does not have any other decision-making bodies. The text has been revised as follows:

3.0 OTHER DECISION-MAKING BODIES

None. ~~The WECC Compliance Committee provides general oversight and policy guidance but does not have decision-making authority with respect to compliance matters.~~

In Section 1 of **Exhibit E**, the descriptions of listed activities funded through the ERO funding mechanism are shortened and clarified. These descriptions have been revised as follows:

- Compliance Monitoring and Enforcement
~~This category encompasses WECC's Compliance Monitoring and Enforcement program, including~~ includes activities under the WECC Reliability Management System

- Situation Awareness
As agreed to by NERC and WECC on an annual basis, this category includes WECC's Reliability Coordinator Functions, Western Interconnection Synchrophasor Program, WECC Interchange Tool, and all necessary supporting activities. If sub-delegated by WECC, the costs for the Reliability Coordinator Functions, Western Interconnection Synchrophasor Program, WECC Interchange Tool and necessary supporting activities shall not be included in WECC's annual budget submission to NERC but rather shall be included in the budget of the Reliability Coordination Company-Peak Reliability.

Additionally, references to the Reliability Coordination Company or "RCCo" in Exhibit E are replaced with Peak Reliability.

As stated earlier, differences between the revised *pro forma* RDA and the revised WECC

RDA are shown in **Attachment 10B**.⁵²

Respectfully submitted,

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⁵² A number of the provisions in **Attachment 10B** have already been approved by FERC and are incorporated into the revised WECC RDA.

ATTACHMENTS 1 -- 12

(Available on the NERC Website at

http://www.nerc.com/FilingsOrders/ca/Canadian%20Filings%20and%20Orders%20DL/Attachments_RDA_2015.pdf)