

March 22, 2018

**VIA OVERNIGHT MAIL**

Sheri Young, Secretary of the Board  
National Energy Board  
517 – 10<sup>th</sup> Avenue SW  
Calgary, Alberta  
T2R 0A8

Re: *North American Electric Reliability Corporation*

Dear Ms. Young:

The North American Electric Reliability Corporation hereby submits Amended Notice of Filing of the North American Electric Reliability Corporation of Proposed Revisions to the Rules of Procedure. 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 concerning this filing.

Respectfully submitted,

/s/ Shamai Elstein

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

Enclosure

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- Exhibit A**      Clean and Redline Versions of Section 400 to the NERC Rules of Procedure
- Exhibit B**      Clean and Redline Versions of Appendix 2 to the NERC Rules of Procedure
- Exhibit C**      Clean and Redline Versions of Appendix 4C to the NERC Rules of Procedure
- Exhibit D**      Consideration of Comments

**BEFORE THE  
NATIONAL ENERGY BOARD**

**NORTH AMERICAN ELECTRIC )  
RELIABILITY CORPORATION )**

**AMENDED NOTICE OF FILING OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
OF PROPOSED REVISIONS TO THE RULES OF PROCEDURE**

The North American Electric Reliability Corporation (“NERC”) hereby submits an amendment (“Amendment”) to its filing submitted on December 14, 2016 (“December 2016 Filing”) of proposed revisions to the NERC Rules of Procedure (“ROP”).<sup>1</sup> The specific revisions included in its December 2016 Filing are revised with the incremental modifications discussed herein.

The currently-effective ROP contemplate that hearings to resolve contested noncompliance, mitigation plans, remedial action directives, penalties, or sanctions may be conducted by each Regional Entity. NERC’s December 2016 Filing proposed revisions to the ROP that incorporate the Consolidated Hearing Process, which would provide Regional Entities an option to select NERC to manage the hearing process. After NERC’s submittal of the December 2016 Filing, United States Federal Energy Regulatory Commission (“FERC”) staff raised concerns related to the proposal to give the Hearing Officer the ability to cast the deciding vote in the event that a Hearing Body vote results in a tie. FERC staff also recognized the inconsistent use of the terms “sector” and “segment”. This Amendment augments the December 2016 Filing and addresses the issues raised by FERC staff.

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<sup>1</sup> *Notice of Filing of the North American Electric Reliability Corporation of Proposed Revisions to the Rules of Procedure*, (Dec. 14 2016).

The proposed clean and redlined versions of Section 400 (**Exhibit A**), and Appendices 2 and 4C (**Exhibits B-C**) to the ROP (Appendix A) include proposed revisions to incorporate the Consolidated Hearing Process within the ROP discussed in the December 2016 Filing and additional revisions to address the concerns raised by FERC staff.

For the reasons stated in the December 2016 Filing and this Amendment, the proposed ROP revisions included in **Exhibits A-C** as 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:

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## **II. PROPOSED REVISIONS**

### **A. Proposed Revisions Summary**

Under the updated proposed revisions to the proposed hearing process, the consolidated Hearing Body would generally be composed of five members and would choose a Hearing Officer to administer the proceedings. The Hearing Officer would not be a member of the Hearing Body. As previously contemplated, up to two members of the Hearing Body may be appointed by the Regional Entity from which the case originates. The NERC Board of Trustees Compliance Committee (“BOTCC”) will appoint two members chosen among NERC trustees not serving at the

time of the request for hearing.

To address the concerns raised by FERC staff with respect to a possible tie, instead of the addition of Appendix 4C, Attachment 2, Section 1.4.3(b)(7) proposed in the December 2016 Filing, the updated proposed revisions now contemplate that members so appointed to the Hearing Body would then appoint an additional member. The additional member may be chosen among NERC trustees not serving on the BOTCC at the time of the request for hearing or from the Regional Entity which the case originates (provided all qualifications applying to Hearing Body members are met). If the Hearing Body does not select a NERC trustee or a regional representative, the Hearing Body may appoint the additional member in accordance with the criteria specified in Appendix 4C, Attachment 2, Section 1.4.3(a). In the event a Regional Entity chooses not to appoint members to the Hearing Body and there are not five NERC trustees available to participate on the Hearing Body, as determined by the BOTCC, the Hearing Body may be composed of three members (three NERC trustees not serving on the BOTCC).

NERC also proposes changes to provisions in ROP Section 400 and Appendix 4C related to the Consolidated Hearing Process that use the terms “segment” and “sector” to align with the Appendix 2 definitions and the Regional Delegation Agreements between NERC and each Regional Entity. The term “segment” is used in the context of NERC’s Reliability Standards development process. The term “sector” refers to members of NERC that are Bulk Power System owners, operators, or users or others persons and entities with substantially similar interests, including governmental entities. The membership “sectors” are defined in Article II, Section 4 of the NERC Bylaws. To align the use of terminology with the appropriate context, NERC proposes to delete the term “segment” and replace it with the term “sector” in the ROP provisions related to the proposed hearing process.

## **B. Proposed Revisions Development**

NERC posted its updated proposed revisions publicly on November 30, 2017 for a 45- day comment period ending on January 14, 2018. NERC received limited comments from industry stakeholders. One commenter suggested that the Appendix 2 definition of Hearing Officer should be modified to clarify that the Hearing Officer is not a member of the Hearing Body. NERC agreed and modified the Hearing Officer definition to state that the Hearing Officer is not a member of the Hearing Body.

All the comments received on the updated revisions are described and addressed in **Exhibit D**.<sup>2</sup> In addition, all comments received in response to the amended proposed revisions are posted on the ROP page of the NERC website. NERC posted further revised redline drafts of the ROP changes incorporating comments received and accompanying materials on the NERC website on January 24, 2018, at least fifteen days prior to consideration of these proposed revisions by the NERC Board of Trustees (“NERC Board”). On February 8, 2018, the NERC Board approved the amended proposed ROP revisions.

## **C. Updated Proposed Revisions to Section 400**

In addition to the revisions included in its December 2016 Filing, NERC provides notice of the following specific updated proposed revisions to Section 400 (see **Exhibit A**) to address FERC staff’s concerns discussed above as follows:

- The term “segment” was replaced in Sections 403.4 and 403.15 with the term “sector”.
- The updated proposed revisions to Section 403.15(B) now contemplate that the consolidated Hearing Body would generally be composed of five members and would choose a Hearing Officer to administer the proceedings. The members so appointed to

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<sup>2</sup> Exhibit D of the December 2016 Filing includes consideration of comments to the originally submitted revisions.

the Hearing Body would then appoint an additional member. The additional member may be chosen among NERC trustees not serving on the BOTCC at the time of the request for hearing or from the Regional Entity which the case originates (provided all qualifications applying to Hearing Body members are met).

**D. Updated Proposed Revisions to Appendix 2**

In order to align the NERC *Glossary of Terms* with the Consolidated Hearing Process, NERC provides notice of the revisions included in its December 2016 Filing as well as the following specific updated proposed revisions to Appendix 2 (see **Exhibit B**) as follows:

- “Hearing Officer” was further revised to state that the Hearing Officer is not a member of Hearing Body.

**E. Updated Proposed Revisions to Appendix 4C**

In addition to the revisions included in its December 2016 Filing, NERC provides notice of the following specific updated proposed revisions to Appendix 4C (see **Exhibit C**) as follows:

- The term “segment” was replaced in Sections 1.1.1(b) and 1.4.3(a) with the term “sector”.

Respectfully submitted,

/s/ Arthur Brown

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Date: March 22, 2018

**EXHIBITS A — D**