

March 21, 2022

VIA ELECTRONIC FILING

Ms. Christine E. Long
Registrar & Board Secretary
Ontario Energy Board
27th Floor 2300 Yonge Street
Toronto, ON M4P 1E4

Re: *North American Electric Reliability Corporation*

Dear Ms. Long:

The North American Electric Reliability Corporation (“NERC”) hereby submits Notice of Filing of the North American Electric Reliability Corporation of Amendments to the Bylaws of Northeast Power Coordinating Council, Inc. 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.

Sincerely,

/s/ Lauren Perotti

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**ONTARIO ENERGY BOARD
OF THE PROVINCE OF ONTARIO**

**NORTH AMERICAN ELECTRIC)
RELIABILITY CORPORATION)**

**NOTICE OF FILING OF THE NORTH AMERICAN ELECTRIC RELIABILITY
CORPORATION OF AMENDMENTS TO THE BYLAWS OF NORTHEAST POWER
COORDINATING COUNCIL, INC.**

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CORPORATION OF AMENDMENTS TO THE BYLAWS OF NORTHEAST POWER
COORDINATING COUNCIL, INC.**

The North American Electric Reliability Corporation (“NERC”) provides notice of proposed amendments to the NPCC Bylaws (the “Bylaws”).¹ These proposed amendments are the first set of changes to the NPCC Bylaws since 2012. As described in detail in this filing, the proposed amendments are designed to, among other things: (1) revise the Bylaws to improve corporate governance; (2) ensure consistency with the Not-for-Profit Corporation Law of the State of New York (“N-PCL”), pursuant to which NPCC is organized; and (3) update the Bylaws to remove extraneous provisions, create efficiencies, and reflect changes at NPCC since 2012.

NERC staff has determined there are no reliability-related issues raised by the proposed amendments. As amended, the NPCC Bylaws continue to satisfy the five governance criteria specified in Exhibit B to the Amended and Restated Delegation Agreement between NPCC and NERC.

Attachments 1 and 2 to this filing are clean and redline versions, respectively, of the revised NPCC Bylaws.

¹ NERC maintains an up-to-date copy of each Regional Entity’s bylaws and standard development procedure on its website at: <https://www.nerc.com/AboutNERC/Pages/Regional-Entity-Delegation-Agreements.aspx>.

I. NOTICES AND COMMUNICATIONS

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

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II. PROPOSED AMENDMENT TO THE NPCC BYLAWS

The following is an explanation of the proposed amendments to the NPCC Bylaws.²

1. ARTICLE I – DEFINITIONS

Section 1.1 Definitions – NPCC is proposing to add three new defined terms to its Bylaws:

(1) “Electric Reliability Organization” or “ERO” (2) “NPCC Reliability Criteria,” and (3) “NPCC Reliability Criteria Compliance and Enforcement Program.”

Electric Reliability Organization/ERO – The term *Electric Reliability Organization/ ERO* was added as it was already used in the Bylaws but not defined. The proposed definition is “the organization certified by FERC as defined in 18 C.F.R. §39.1.”

NPCC Reliability Criteria and NPCC Reliability Criteria Compliance and Enforcement Program – As part of the proposed amendments, NPCC is replacing generic references to its regional Reliability Criteria Compliance and Enforcement Program in Articles VI, IX and X with defined terms. NPCC develops regional Reliability Criteria that are necessary to implement, augment, or comply with NERC Reliability Standards, but which are not Reliability Standards.

² This section does not include a description of all non-substantive edits to correct grammar or similar changes. Those non-substantive changes are shown in the redline version of the Bylaws included as Attachment 2 to this filing.

NPCC Regional Criteria also address reliability issues not within the scope of Reliability Standards, such as resource adequacy. NPCC's Reliability Criteria are developed and maintained pursuant to the NERC Rules of Procedure and are documented within Directories that organize the criteria along with functionally relevant supporting guidelines and procedures.

The proposed definition of "NPCC Reliability Criteria" is as follows:

NPCC's more stringent operating, design and protection criteria that are regionally specific reliability requirements that apply to the Full Members of NPCC that own or operate generation or transmission facilities for which faults or disturbances can have a significant adverse impact outside of the local area and which have been identified utilizing an impact-based methodology.

The proposed definition of "NPCC Reliability Criteria Compliance and Enforcement Program" is "the program in which Full Members of NPCC are obliged to certify compliance with a subset of NPCC Reliability Criteria that are being actively monitored."

NPCC is proposing to remove from its Bylaws all provisions related to compliance and enforcement hearings. Such provisions are not necessary for the NPCC Bylaws as they are addressed in other governing documents, including the Regional Delegation Agreement with NERC and in its Memorandums of Understanding or other agreements with Canadian governmental authorities. This includes the proposed deletion of two existing terms: "Hearing Body" and "Hearing Officer."

Additionally, NPCC is proposing edits to the definition of "Board Chair" (change "chairman" to "chair"), "Bulk Power System" (correct cite to the Federal Power Act), Bylaws (remove references to date of initial member approval and effective date) and "Northeastern North America" (to list out the states in New England). None of these changes alter the meaning of the definitions or otherwise substantively modify the Bylaws.

Section 1.2 Additional Defined Terms (Deleted) – NPCC proposes to delete section 1.2 as there is no need to reference additional terms defined elsewhere. There are no defined terms in the

amended Bylaws not defined therein.

2. ARTICLE II – OFFICES

Section 2.2 Other Offices – NPCC proposes to add a new Section 2.2 (Other Offices) to permit NPCC to have offices other than its principal office in New York County. NPCC is initiating this change to reflect the necessity of remote/hybrid office environments due to the pandemic and ensure consistency with the N-PCL, which requires member meetings to be held at corporate offices.

3. ARTICLE III – PURPOSE

Section 3.2 Purpose – NPCC proposes to delete from the purpose statement references to NPCC “facilit[ating] the attainment of fair, effective and efficient competitive electric markets” in the development of “regionally specific reliability criteria.” That statement does not appropriately reflect NPCC’s purpose in developing regionally specific reliability criteria or otherwise. While the development of NPCC’s criteria should not adversely affect competitive electric markets, it is not NPCC’s purpose to facilitate the attainment of fair, effective and efficient electric markets.

4. ARTICLE IV – MEMBERSHIP

Section 4.1 List of Members (Deleted) – NPCC proposes to delete the list of initial members currently included in Schedule A and the reference to Schedule A in Section 4.1. As membership lists change from time-to-time, any list included in the Bylaws will become outdated. As there is no requirement to include a list of members in the Bylaws, NPCC proposes to delete Section 4.1 and Schedule A.

Section 4.1 Eligibility (formerly Section 4.2) – The proposed amendments in new Section 4.1 are designed to simplify NPCC membership qualifications and delete extraneous information.

In Section 4.1(1) applicable to General Membership, NPCC proposes to:

- Remove references to the NERC Registered Ballot Body to clarify that General Membership is open to any person or organization with an interest in Northeastern North American Bulk Power System, not just NERC registered entities.
- Remove references to registered entities being “entitled to receive additional services from the Regional Entity Division of NPCC” as being a registered entity is not related to membership eligibility.

In Section 4.1(2) applicable to Full Membership, NPCC proposes to remove (1) the statement that Full Membership is available to General Members that “also participate in electricity markets in the international, interconnected bulk power system in Northeastern North America” as an eligibility requirement for Full Membership, and (2) that Full Members are subject to compliance with Reliability Standards. Full Membership should not require the participation in electricity markets and that phrase is ambiguous. Additionally, becoming a Full Member does not subject entities to compliance with Reliability Standards; being a NERC Registered Entity requires compliance with Reliability Standards.

Section 4.2 Application as a Member and Renewal of Membership (formerly Section 4.3)

– The amendments to this section clarify the process for notice of termination of membership for non-renewal. NPCC proposes that failure to submit a renewal application upon request “may” result in membership termination and NPCC shall notify any person or entity that has its membership terminated in writing. The proposed amendment provides NPCC additional flexibility in managing its membership.

Section 4.4 Assignment to Voting Sector – The proposed amendment to his section would allow Members to request a change to their voting sector designation outside of the Annual Meeting of Members. This amendment would provide Members more flexibility in making such a request.

Section 4.6 Termination of Membership – NPCC proposes to add a provision that would allow the NPCC Board to terminate membership if “the Member has failed to meet its respective

qualifications, obligations, and conditions of Membership as set forth” in the Bylaws. This amendment improves NPCC’s governance of its Members by providing the NPCC Board the ability to terminate Members for non-compliance with the Bylaws.

5. ARTICLE V – ORGANIZATION OF NPCC

Section 5.3 Officers – NPCC proposes to amend this section to allow the NPCC Board, as opposed to NPCC Members, to approve officers annually and in the event of a vacancy. Providing the Board the ability to approve its own officers will provide a more efficient mechanism for approving Board officers and is consistent with NERC’s bylaws and common practice among corporate boards.

Section 5.5 Vacancies – NPCC proposes to combine the subparts of Section 5.5 such that if there is a vacancy in the Board or any position on the Board, the entire NPCC Board is responsible for filling that chair by a two-thirds affirmative majority of the weighted sector votes. Under the existing Bylaws, to fill a vacancy on the Board or in the office of Co-Vice Chair, Secretary, or Treasurer, the Board Chair would designate an individual with approval of a majority vote of the Board. The proposed amendment would simplify the process for filling a vacancy and treat all officers similarly.

6. ARTICLE VI - BOARD OF DIRECTORS

Section 6.1 Hybrid Board – The amendment to this section clarifies that that the NPCC President and CEO is a non-voting member of the NPCC Board and any Board Committees. The current version of Section 6.1 does not include reference to Board Committees. The addition of Board Committees removes any ambiguity as to the President and CEO’s voting status on Board Committees.

Section 6.2 Term and Compensation – NPCC proposes to amend Section 6.2 to (1) remove

reference to initial terms as they are no longer necessary in the Bylaws, and (2) raise the term limits for independent directors to four terms (two years per term). The higher term limits will provide for more continuity amongst the independent directors and improve Board oversight.

Section 6.3 Powers and Duties – In section 6.3, NPCC proposes to delete reference to (1) NPCC Board approval of the NPCC Compliance Monitoring and Enforcement Program as any changes to that program are accomplished through changes to the NERC Rules of Procedure, which does not require NPCC Board approval, and (2) enlisting or employing NPCC Member personnel to carry out the purpose of NPCC as term "enlist" is vague and NPCC does not employ Member personnel. Any Member personnel that volunteer to assist NPCC is carrying out its mission (e.g., participating in a technical committee) need not be mentioned in this section of the Bylaws.

Section 6.5 Quorum and Voting Requirements for the Board – The only substantive change proposed in this section is to remove the ability for Board Directors to attend meetings via proxy so as to be consistent with the requirements of N-PCL, section 1605. While proxy voting allows more flexibility for members who otherwise may not be able to participate, it could also result in less participation by voting members when discussing an issue, which is of particular concern for issues when hearing differing perspectives is critical for members who are still deciding how to vote. Proxy voting can also negatively impact Director attendance at meetings. With the widespread use of virtual meetings allowing for increased flexibility for attending meetings, NPCC proposes to eliminate the use of proxies consistent with the N-PCL.

Section 6.6 Board Action Without Meeting – NPCC proposes to replace reference to “the minute book of NPCC” with “NPCC Board’s secure portal” to reflect NPCC’s record keeping practices.

Section 6.7 Election and Removal of Directors – NPCC proposes to amend this section to (1) delete reference to initial terms for Board Directors as they are no longer necessary, and (2) provide that grounds for removal of a Board director “for cause” applies to both Board duties and Board Committee responsibilities.

Section 6.8 Indemnification – The proposed amendments to this section would allow, but not require, indemnification of NPCC employees consistent with the N-PCL section 726.

7. ARTICLE VII COMMITTEES

Section 7.1 Committees of the Corporation and Section 7.2 Board Committees – Section 7.1 currently lists both technical committees of the corporation and Board Committees. To avoid confusion, proposed section 7.1 lists the committees of the corporation and new section 7.2 lists the Board Committees.

Section 7.4 Board Committee Structure (formerly Section 7.3) – NPCC proposes to amend this section to require that Board Committees be comprised of at least three Board Directors, that each Board Committee shall have a chair designated from among the members of the Board Committee, and that each Board Committee have a charter (as opposed to a charter or a scope of work). These proposed amendments would add structure to the Board Committees and improve governance.

Section 7.4 Hearing Body (Deleted) – As noted above, NPCC is proposing to remove from its Bylaws all provisions related to compliance and enforcement hearings as such provisions are not necessary for the NPCC Bylaws and are addressed in other governing documents. As such, this section, which states that the Hearing Body shall conduct all compliance proceedings, is being deleted.

8. ARTICLE VIII - MEMBERS' VOTING RIGHTS

Section 8.4 Meeting of Members to be Open – NPCC is proposing to clarify that notice of Member meetings need not be posted on NPCC's website but can be accomplished via any Board-approved method. New technologies may be better suited to providing notice and the Bylaws should not limit use of those technologies moving forward.

9. ARTICLE IX - MEMBERS' RIGHTS AND OBLIGATIONS

Section 9.1 Member Rights and Obligations – The proposed amendments to this section are mostly non-substantive changes (e.g., capitalize “General Membership”, change “ERO Standards” to “Reliability Standards”) and to clarify that references to “NPCC committees” is to the corporate committees (not Board Committees) and references to the “Compliance and Enforcement Program” is to the “NPCC Reliability Criteria Compliance and Enforcement Program.”

Section 9.3 Procedures for Enforcing Compliance with Reliability Standards (Deleted) – NPCC proposes to delete the entirety of this section addressing enforcement of Reliability Standards. Compliance enforcement issues are addressed in other documents (i.e., NERC's Rules of Procedure and Regional Delegation Agreements) and not necessary for the Bylaws.

10. ARTICLE XI – MEETINGS

Section 11.1 Meetings - NPCC proposes to amend this section to allow the NPCC Board and Member meetings to be held outside of New York. Holding meetings outside of New York is permitted under the N-PCL and will provide NPCC and its Members additional flexibility on meeting locations.

Section 11.3 Action by Remote Communication – NPCC proposes to modify the existing provision allowing NPCC Board to participate in meetings remotely to simplify the requirements

and more closely track the N-PCL.

11. ARTICLE XV – CONFLICTS OF INTEREST

Section 15.1 Conflicts of Interest Policy – NPCC proposes to replace the existing provision on conflicts of interest with the following: “All Directors and NPCC representatives shall comply with NPCC’s policies that prohibit conflicts of interest including its Conflicts of Interest Policy.” This statement tracks more closely with the requirements of the N-PCL and explicitly references NPCC’s conflicts of interest policy, which includes the elements in the existing version of section 15.1.

12. ARTICLE XVI – GENERAL

Section 16.3 Binding Nature (Deleted) – NPCC proposes to delete reference to Members being bound by the NPCC Bylaws because each Members rights and obligations are described in Article IX of the NPCC Bylaws.

13. ARTICLE XVIII – DISSOLUTION

Section 18.1 Distribution of Assets – NPCC proposes to remove reference to the specific paragraph number of NPCC’s Certificate of Incorporation to allow for amendments to the Articles of Incorporation in the future without having to also amend the Bylaws.

III. NERC APPROVALS OF THE PROPOSED AMENDMENT

The NPCC Board approved the proposed Bylaw amendments on October 27, 2021, followed by NPCC Members’ approval on December 1, 2021. The NERC Board of Trustees approved the proposed amendment on February 10, 2022.

Respectfully submitted,

/s/ Shamai Elstein

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Dated: March 21, 2022

ATTACHMENTS 1 - 2