

January 6, 2015

**VIA ELECTRONIC FILING**

Veronique Dubois  
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RE: *North American Electric Reliability Corporation*

Dear Ms. Dubois:

The North American Electric Reliability Corporation (“NERC”) hereby submits Notice of Filing of the North American Electric Reliability Corporation of Risk-Based Registration Initiative Rules of Procedure Revisions. 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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Enclosure

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**BEFORE THE  
RÉGIE DE L'ÉNERGIE  
THE PROVINCE OF QUÉBEC**

**NORTH AMERICAN ELECTRIC )  
RELIABILITY CORPORATION )**

**NOTICE OF FILING OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
OF RISK-BASED REGISTRATION INITIATIVE  
RULES OF PROCEDURE REVISIONS**

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*Counsel for the North American Electric  
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January 6, 2015

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- Exhibit A** Proposed NERC Rules of Procedure
- Exhibit B** Proposed NERC Rules of Procedure – Redlined version
- Exhibit C** Technical Report: Risk-Based Registration: Technical and Risk Considerations

**BEFORE THE  
RÉGIE DE L'ÉNERGIE  
THE PROVINCE OF QUÉBEC**

**NORTH AMERICAN ELECTRIC )  
RELIABILITY CORPORATION )**

**NOTICE OF FILING OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
OF RISK-BASED REGISTRATION INITIATIVE  
RULES OF PROCEDURE REVISIONS**

The North American Electric Reliability Corporation (“NERC”) hereby provides notice of revisions to implement the Risk-Based Registration initiative to the following parts of NERC’s Rules of Procedure:

- Section 302: Essential Attributes for Technically Excellent Reliability Standards
- Section 501: Scope of the Organization Registration and Organization Certification Programs
- Appendix 2: Definitions Used in the Rules of Procedure
- Appendix 5A: Organization Registration and Certification Manual
- Appendix 5B: Statement of Compliance Registry Criteria

NERC is providing a description of other related administrative changes for informational purposes only.<sup>1</sup>

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<sup>1</sup> The Common Registration Form and One-Time Attestations described herein are included only for informational purposes, and NERC is not requesting action on these changes.

## I. EXECUTIVE SUMMARY

NERC's Risk-Based Registration initiative seeks to ensure that the right entities are subject to the right set of applicable Reliability Standards, using a consistent approach to risk assessment and registration. NERC's mission is to assure the reliability of the Bulk-Power System and as an organization, NERC has been transforming its approaches to compliance and enforcement to be forward-looking with a focus on high reliability risk areas. As NERC has matured in its role as the Electric Reliability Organization ("ERO"), it has shifted the paradigms for compliance and enforcement, and for drafting results-based Reliability Standards.<sup>2</sup> Additionally, and likewise, implementation of the NERC Registry Criteria over the last eight years has yielded a wealth of experience and information. Informed by these efforts and consistent with these developments in the framework for compliance, enforcement, and Reliability Standards, NERC is proposing to reform registration in a manner that will drive the registration program toward a mature end-state.

NERC proposes the following three reforms: (1) modifications to the NERC Registry Criteria, including the removal of three functional registration categories (Purchasing-Selling Entities, Interchange Authorities, and Load-Serving Entities), modifications to the threshold for registering entities as Distribution Providers, and alignment of five functional registration categories to the definition of "Bulk Electric System" (Transmission Owners, Transmission Operators, Generator Owners, Generator Operators, and Distribution Providers); (2) the risk-based application of sub-set lists of Reliability Standards, as warranted and supported by

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<sup>2</sup> The Find, Fix, Track and Report initiative was a fundamental shift in NERC's compliance and enforcement philosophy designed to provide flexibility and focus resources on issues that pose the greatest risk to reliability. *See Letter of September 30, 2011, which attached the Petition to FERC requesting approval of FFT.* Similarly, as part of the Paragraph 81 initiative, NERC retired requirements in Reliability Standards that had little to no effect on reliability in order to allow industry stakeholders to focus their resources appropriately on reliability risks and increase the efficiency of the ERO compliance program. *Notice of Filing of the North American Electric Reliability Corporation of Retirement of Requirements in Reliability Standards, March 19, 2013.*

technical and risk consideration review and analysis, for entities (including Underfrequency Load Shedding-Only Distribution Providers); and (3) procedural improvements to the registration process.<sup>3</sup> Extensive technical justification and risk considerations for these proposed changes are included in the technical report in **Exhibit C**.

These proposed reforms are based on the February 2011 Federal Energy Regulatory Commission (“FERC”) technical conference in Docket No. AD11-6-000 on *Priorities for Addressing Risks to the Reliability of the Bulk-Power System*, where there was a recognition that “if everything is a priority, then nothing is a priority.”<sup>4</sup> Priorities must be driven by a clear understanding of risks and consequences, and the costs and benefits associated with addressing them. With a shift toward risk-based approaches and a learning industry, NERC is introducing quantitative measures of reliability performance. The proposed revisions are a result of NERC’s dedication to taking a risk-based approach to reliability and to incorporating lessons-learned through continuously improving and adapting operations.

The ERO compliance program and stakeholders will benefit from the proposed revisions included herein as efforts will appropriately be directed towards activities with a greater potential impact on reliability – these benefits translate into time and resources saved, which helps ensure that the costs of reliability are proportionate to the benefits. It is important to achieve reliability risk mitigation in a manner that balances affordability of electricity in a competitive global market with the need to ensure the reliability and security of our North American electricity infrastructure.

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<sup>3</sup> The revised definition of “Bulk Electric System” and the accompanying exceptions process has served as a model for the procedural improvements to the registration process and for the proposed modification to the threshold for Distribution Providers. *See Notice of Filing of the North American Electric Reliability Corporation of Revisions to the Definition of “Bulk Electric System,” May 6, 2014.*

<sup>4</sup> Additional information available at: <http://www.ferc.gov/EventCalendar/EventDetails.aspx?ID=5561&CalType=%20&CalendarID=116&Date=02/08/2011&View=Listview>.

As noted above, NERC proposes to remove three functional registration categories from the NERC Compliance Registry--Purchasing-Selling Entities, Interchange Authorities, and Load-Serving Entities, because their activities are commercial in nature and can be removed for purposes of registration with little to no risk to the reliability of the Bulk-Power System given that these entities do not own or operate Bulk Electric System equipment. Historical enforcement data has confirmed that these entities have not caused or exacerbated events or system disturbances that jeopardized reliability of the grid, and nearly all violations posed a minimal actual risk to reliability and the vast majority posed a minimal potential risk.

NERC also proposes revisions to align five functional registration categories (Transmission Owners, Transmission Operators, Generator Owners, Generator Operators, and Distribution Providers) with the definition of “Bulk Electric System.” For four of these categories (Transmission Owners, Transmission Operators, Generator Owners and Generator Operators), the revisions assure consistency in the identification of Elements and Facilities that make up the Bulk Electric System. In addition, with respect to the Distribution Provider registration category, there are several new and revised criteria.<sup>5</sup> Revisions are proposed to the only Distribution Provider criteria that includes a MW threshold to increase that threshold for registration from 25 MW to 75 MW and to align the “directly connected” language with the definition of “Bulk Electric System.” The 75 MW threshold aligns with the 75 MVA threshold for certain generating resources.

As part of the Risk-Based Registration Initiative, changes are proposed to the NERC Rules of Procedure that explicitly allow NERC to provide a sub-set list of Reliability Standards

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<sup>5</sup> The revised definition of “Bulk Electric System” and the accompanying exceptions process has served as a model for the procedural improvements to the registration process and for the proposed modification to the threshold for Distribution Providers. *See Notice of Filing of the North American Electric Reliability Corporation of Revisions to the Definition of “Bulk Electric System,” May 6, 2014.*

to entities as warranted, consistent with existing precedent. This provision is then applied to certain Distribution Providers that meet no other Distribution Provider registration criteria, but own, control or operate Underfrequency Load Shedding Protection System(s) needed to implement a required Underfrequency Load Shedding Program designed for the protection of the Bulk Electric System. Additional proposed changes to the NERC Rules of Procedure explicitly recognize the possibility of sub-set lists of Reliability Standards and provide transparency regarding how such sub-set lists would be integrated into the registration process.

In addition, there are several proposed procedural improvements to the registration process, including: (1) the establishment of a materiality test for registration, with clear procedures and criteria for evaluation of whether an entity has a material impact on reliability with respect to above-the-line and below-the-line Registry Criteria determinations; (2) an enhanced process for review by a NERC-led, multi-regional panel of certain registration, deactivation and deregistration decisions, as well as certain requests for sub-set lists of Reliability Standards; (3) development of a common registration form to facilitate uniformity in Regional Entity collection of the information from registration candidates; and (4) one-time attestations that allow entities to record that a specific Reliability Standard requirement is “Not Applicable.” Collectively, these proposed procedural improvements provide additional clarity and transparency regarding registration requirements, roles, and responsibilities. As FERC has noted, “[a] key element of consistency is the transparency of the ERO Enterprise’s processes and its outcomes.”<sup>6</sup> This improved consistency and coordination should lead to more efficient and uniform work practices.

Fundamentally, the proposed revisions are a refinement of NERC’s registration program, will reduce the regulatory burden of approximately 700 organizations, and allow such

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<sup>6</sup> *North American Electric Reliability Corp.*, 149 FERC ¶ 61,141 at P 70 (2014).

organizations to focus on issues that impact reliability. Of the 1,603 unique organizations listed on the NERC Compliance Registry, registered for 4,311 reliability functions, only about 700 organizations are expected to be impacted by the proposed deactivations and deregistration.<sup>7</sup> Approximately 200 organizations would be deregistered from the NERC Compliance Registry and approximately 500 organizations would be impacted by the proposed deactivations. For example, as a result of the proposed changes, approximately 14 organizations now on the NERC Compliance Registry as Load-Serving Entities are expected to be deregistered, 197 organizations now on the NERC Compliance Registry as Purchasing-Selling Entities are expected to be deregistered and no organizations now on the NERC Compliance Registry as Interchange Authorities would be deregistered.<sup>8</sup> Just as FERC regularly reviews its regulations to ensure that they achieve their intended purpose and do not impose an undue burden or unnecessary costs,<sup>9</sup> it is appropriate for NERC to evaluate its registration program in the same light.

The proposed changes reflect significant input from the Risk-Based Registration Advisory Group (comprised of NERC staff, the Regional Entities, FERC technical staff, and industry representatives from the United States and Canada) and the RBRAG technical task force (comprised of subject matter experts from NERC, the Regional Entities, and industry), both of which were established by NERC to support this initiative. NERC received additional input from industry survey responses, public comments during the meetings of the Board and its

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<sup>7</sup> Additional information regarding the impact of these changes is included in **Exhibit C**, Appendix C: Proposed Deactivations.

<sup>8</sup> As noted herein, deregistration occurs when all functions of an entity have been deactivated.

<sup>9</sup> Written Testimony of Chairman Jon Wellinghoff before the U.S. House of Representatives Committee on Energy and Commerce, Subcommittee on Oversight and Investigations, July 7, 2011, at p. 2 (“The Commission regularly reviews its regulations to ensure that they achieve their intended purpose and do not impose undue burdens on regulated entities or unnecessary costs on those entities or their customers.”). Subsequently, on July 11, 2011, President Barack Obama issued an Executive Order to independent agencies, such as FERC, to develop and release a plan to review rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned. President Barack Obama’s Executive Order 13579, Regulation and Independent Regulatory Agencies at Section 2 (July 11, 2011). Chairman Jon Wellinghoff announced that same day that FERC would implement President Barack Obama’s Executive Order. FERC News Release, “FERC To Institute Public Review of Regulations” (July 11, 2011).

committees, as well as the Member Representatives Committee policy input comments. Finally, the proposed changes reflect input from over fifty sets of comments on the design and implementation plan that were submitted in June and nearly forty sets of comments in October 2014.

While three entities are proposed for removal from the Registry Criteria, as users, owners and operators of the Bulk-Power System, these entities remain within in the statutory scope of both FERC and NERC pursuant to Section 215 of the Federal Power Act. Functionally, Load-Serving Entities, Purchasing-Selling Entities and Interchange Authorities will continue to exist and will continue to perform in the markets or operate under open access transmission tariffs, as applicable. The proposed revisions do not alter the NERC registered ballot body, as codified in Appendix 3D of the NERC Rules of Procedure or the NERC Functional Model.<sup>10</sup>

Provided below is an explanation of the proposed revisions to the Registry Criteria (Section IV), the concept of the risk-based application of Reliability Standards (Section V), an overview of the procedural improvements to registration (Section VI) and a section-by section explanation of how each of these reforms is proposed for implementation in the NERC Rules of Procedure (Section VII).<sup>11</sup> NERC commits to submitting an informational filing within one year of final action in order to ensure that there are no unintended consequences to reliability as a result of the instant proposal.

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<sup>10</sup> For example, Segment 3 of the NERC registered ballot body is comprised of Load-Serving Entities and will remain unchanged. The NERC Functional Model is a guideline for the applicability of Reliability Standards and standard developers are not required to include all tasks envisioned in the model, nor are the developers precluded from developing Reliability Standards that address functions not described in the model, *available at*: [http://www.nerc.com/pa/Stand/Functional%20Model%20Archive%201/Functional\\_Model\\_V5\\_Final\\_2009Dec1.pdf](http://www.nerc.com/pa/Stand/Functional%20Model%20Archive%201/Functional_Model_V5_Final_2009Dec1.pdf)

<sup>11</sup> None of the changes proposed herein impact an entity's independent responsibility for funding NERC and the Regional Entities. As noted in the NERC Rules of Procedure, Appendix 5B, entities responsible for funding NERC and the Regional Entities have been identified in the budget documents filed with the applicable governmental authorities, and presence or absence from the Compliance Registry, has no bearing on this obligation.

## **II. NOTICES AND COMMUNICATIONS**

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

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## **III. BACKGROUND**

Provided below is the following: (a) an overview of the NERC registration process; (b) an explanation of how the definition of “Bulk Electric System” applies in the NERC registration process; and (c) an explanation of the underlying technical and risk consideration analysis of the Risk-Based Registration initiative and the development process. Collectively, this background information supports and explains the proposed revisions to the NERC Rules of Procedure.

### **A. Registration Process**

The NERC registration process consists of several elements, including the NERC Registry Criteria and the NERC Compliance Registry, and involves both the Regional Entities and NERC. The process for registration is described in Section 500, Appendix 5A: *Organization Registration and Certification Manual* (“Appendix 5A”), and Appendix 5B: *Statement of Compliance Registry Criteria* (“Appendix 5B”) of the NERC Rules of Procedure. Provided

below is a description of how the registration process works and of the roles of the Regional Entities and NERC.

The starting point for the ERO's program for monitoring and enforcing compliance with Reliability Standards is its processes for comprehensively identifying and registering owners, operators, and users of the Bulk-Power System that are responsible for performing reliability-related functions in accordance with the approved Reliability Standards. The NERC Registry Criteria provides for Bulk-Power System users, owners and operators that perform a function identified in Section II of the Registry Criteria, and have a material impact on Bulk-Power System reliability (which is generally determined by whether they meet the threshold criteria in Section III of the Registry Criteria) to register as one or more of fifteen functions. NERC and the Regional Entities identify such entities, which are then obligated to comply with Reliability Standards. Identified entities are registered and included on the NERC Compliance Registry.<sup>12</sup> The NERC Compliance Registry identifies the reliability functions each registered entity is responsible for meeting pursuant to the requirements of Reliability Standards. Organizations listed in the NERC Compliance Registry are responsible for knowing the contents of, and complying with, Reliability Standards applicable to the reliability function(s).<sup>13</sup> The registration criteria for the reliability functions are specified in Section 501 of the NERC Rules of Procedure and in NERC's *Statement of Compliance Registry Criteria* (Appendix 5B).

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<sup>12</sup> NERC Statement of Compliance Registry Criteria (Registry Criteria) at 2 ("Organizations will be responsible to register and to comply with approved Reliability Standards to the extent that they are owners, operators, and users of the Bulk Power System, perform a function listed in the functional types identified in Section II of this document, and are material to the Reliable Operation of the interconnected Bulk Power System as defined by the criteria and notes set forth in this document."). See Registry Criteria at [http://www.nerc.com/FilingsOrders/us/RuleOfProcedureDL/Appendix\\_5B\\_RegistrationCriteria\\_20140701\\_updated\\_20140602%20\(updated\).pdf](http://www.nerc.com/FilingsOrders/us/RuleOfProcedureDL/Appendix_5B_RegistrationCriteria_20140701_updated_20140602%20(updated).pdf).

<sup>13</sup> NERC Rules of Procedure §501. The current categories of reliability functional entities are listed in Rules of Procedure Appendix 5B, *Statement of Compliance Registry Criteria*.

The two goals for registration are: (1) consistency between and among Regional Entities and across the continent in the application of the criteria for registering entities; and (2) registration of any entity whose facilities or operations are material to the reliability of the Bulk-Power System, irrespective of other considerations. The roles of the Regional Entities and NERC are discussed in detail below.

1. Role of Regional Entities

NERC is ultimately responsible for devising the criteria that determine which Bulk-Power System users, owners and operators are subject to approved Reliability Standards, and for maintaining the NERC Compliance Registry of organizations subject to Reliability Standards. In carrying out these responsibilities, NERC delegates certain activities to the Regional Entities to apply and implement registration and certification criteria as part of the Organization Registration and Certification program. Pursuant to the Regional Entity delegation agreements and Section 500, Appendices 5A: *Organization Registration and Certification Manual*, and 5B: *Statement of Compliance Registry Criteria* of the NERC Rules of Procedure, the Regional Entities are responsible for the following registration tasks:

1. Providing NERC with timely and accurate information relating to registrations and registered entities to enable NERC to maintain a registration database that is accurate and up-to-date;
2. Collecting data on and mapping Bulk-Power System facilities and those facilities that have a material impact on the Bulk-Power System within each Regional Entity's defined regional boundaries;
3. Approving or disapproving entity registration applications;
4. Notifying NERC of each coordinated functional registration ("CFR") and joint registration organization ("JRO") that the Regional Entity accepts; and
5. Maintaining a list of active CFRs and JROs.

Pursuant to Section 500 of the NERC Rules of Procedure and the terms of the approved Regional Entity delegation agreements, the Regional Entities are responsible for providing timely and accurate information to NERC relating to registrations to enable NERC to maintain a Compliance Registry that is accurate and up-to-date. Typically, the Regional Entity in whose territory the user, owner, or operator is located identifies a user, owner, or operator of the Bulk-Power System for placement on the NERC Compliance Registry. Upon NERC notifying the entity that it is being placed on the NERC Compliance Registry, the entity may challenge its inclusion on the NERC Compliance Registry by filing a written objection with NERC.<sup>14</sup> The NERC Board of Trustees Compliance Committee (“BOTCC”) hears and decides challenges to inclusion on the NERC Compliance Registry. If the entity is not satisfied with the decision of the BOTCC, the entity may appeal the registration determination to the applicable governmental authority.<sup>15</sup>

The Regional Entities review and evaluate registration requests and changes and make registration recommendations to NERC when a request or change may affect the NERC Compliance Registry. NERC is responsible for registering those entities and establishing and maintaining the NERC Compliance Registry of the Bulk-Power System owners, operators, and users that are subject to approved Reliability Standards.<sup>16</sup>

## 2. Role of NERC

NERC maintains the NERC Compliance Registry, which identifies each registered entity and the applicable functional categories for which it is registered. If an entity meets the Registry

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<sup>14</sup> The NERC Compliance Registry may list a user, owner, or operator of the Bulk-Power System for several reliability functions. A registered entity may challenge its listing for one or more of the reliability functions for which it has been registered while accepting its listing for other reliability function(s).

<sup>15</sup> The registration, challenge, and appeal process described in this paragraph is set forth in Section 501.1.3 of the NERC Rules of Procedure.

<sup>16</sup> See <http://www.nerc.com/pa/comp/Pages/Registration-and-Certification.aspx>.

Criteria, there is a rebuttable presumption that it has a material impact on the reliability of the Bulk-Power System, and it is included in a pool of eligible candidates that NERC and the Regional Entities may identify for registration.

NERC may remove a registered entity from the NERC Compliance Registry for one or more of the reliability functions for which the entity is registered, based on changed circumstances or risks to reliability. As of October 30, 2014, there were 1,603 unique organizations listed on the NERC Compliance Registry, registered for 4,311 reliability functions.

NERC's Compliance Registry Criteria (Appendix 5B) contains five sections. Section I provides that an entity that uses, owns or operates elements of the Bulk Electric System pursuant to NERC's definition is a candidate for registration. Section II of the Registry Criteria categorizes registration candidates under fifteen functional entity types. Section III contains threshold criteria for excluding entities identified as candidates for registration under Sections I and II. Section IV addresses additional criteria for joint registration. Section V provides guidance regarding an entity's registration status. In addition, "Notes" to the Registry Criteria allow for NERC in some circumstances to register entities that fall below the Registry Criteria thresholds, or to refrain from registering entities above the thresholds.

**B. Revised Definition of Bulk Electric System as Model and Anchor for Risk-Based Registration**

As explained below, the revised definition of “Bulk Electric System” has served as a model for the Risk-Based Registration Initiative and is the basis for several proposed revisions. The proposed revisions are also consistent with the underlying goal of the definition of “Bulk Electric System” which is to provide transparency and consistency in the identification of Elements and facilities that make up the Bulk Electric System.

NERC submitted revisions to the definition of “Bulk Electric System” on March 1, 2012 and May 6, 2014. The Bulk Electric System definition consists of a “core” definition and a list of configurations of facilities that are included or excluded from the “core” definition, *i.e.*, Inclusions and Exclusions. The Inclusions address five specific facilities configurations to provide clarity that the facilities described in these configurations are included in the Bulk Electric System. Similarly, the Exclusions address four specific facilities configurations that are *not* included in the Bulk Electric System. The case-by-case exception process, to add elements to, and remove elements from, the Bulk Electric System adds transparency and uniformity to the process of determining what constitutes the Bulk Electric System.

The structure of the Bulk Electric System definition has served as a model for the Risk-Based Registration Initiative. The proposal includes revised thresholds, with a case-by-case process to adjust registration where warranted based on a materiality determination. With a clear definition of what constitutes the Bulk Electric System, NERC can now more clearly and consistently determine which entities impact reliability and warrant registration.

Importantly, the new Bulk Electric System definition and exception process relates to whether a particular Element is Bulk Electric System, and defines the Elements that are not necessary for the reliable Bulk Electric System operation. However, the revised Bulk Electric

System Definition does not affect NERC's ability to decide, on a case-by-case basis, that registration is not warranted in particular cases, or to restrict the applicability of standards to particular entities. It remains within NERC and Regional Entity discretion to determine whether registration of an owner or operator of a particular Bulk Electric System Element, and requiring compliance with the full set of Reliability Standards, is warranted based on all facts and circumstances. NERC proposes changes to Appendix 5B to align with the Bulk Electric System definition, as described in additional detail below. Incorporating the Bulk Electric System definition (including the results of the exception procedure) into the Section II definitions of Generator Owners/Generator Operators and Transmission Owners/Transmission Operators will result in the set of owners and operators of Bulk Electric System generation and transmission being identical to the set of entities subject to registration as Generator Owners/Generator Operators or Transmission Owners/Transmission Operators, and will allow NERC to delete the Section III limitations regarding these functional entities, thus eliminating a potential source of confusion or conflicting results.

#### **IV. PROPOSED REVISIONS TO REGISTRY CRITERIA**

NERC is proposing revisions to the NERC Rules of Procedure Appendix 5B: *Statement of Compliance Registry Criteria* to deactivate the registration of entities for three of the 15 functional categories (Purchasing-Selling Entities, Interchange Authorities, and Load-Serving Entities).<sup>17</sup> NERC also proposes revisions to modify and/or remove existing language related to Transmission Owners, Transmission Operators, Generator Owners, and Generator Operators in order to align with the definition of “Bulk Electric System.” In addition, NERC proposes revisions to the Distribution Provider registration criteria.

Provided below is the following: (a) an explanation of the proposed terms “Deactivation” and “Reactivation” and related processes; (b) justification for the proposed Deactivation of registration of entities registered as Purchasing-Selling Entities, Interchange Authorities, and Load-Serving Entities; and (c) justification for the multiple proposed revisions to the threshold for registering entities as Distribution Providers.

##### **A. Risk-Based Registration Development Process**

The Risk-Based Registration development process included extensive technical and risk consideration analysis and participation by the Regional Entities and stakeholders. Provided below is an explanation of this analysis and the development process.

NERC facilitated independent technical analysis at the ERO, the Regional Entity, and the industry level. These independent sources reviewed the proposed revisions to the compliance registry and provided input and technical justifications for the revisions. In addition, NERC

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<sup>17</sup> At this time, there are no proposed revisions with respect to the remaining functional categories. In addition, NERC is not proposing changes to Coordinated Functional Registration (CFR) or the Joint Registration Organization (JRO) agreement NERC Rules of Procedure provisions. NERC recognizes that these revisions may affect some CFRs and JROs because of the proposals in the Risk-Based Registration effort. To the extent these revisions affect CFRs or JROs by removal of certain functional categories or revised Registry Criteria, entities are encouraged to work with their respective Regional Entity.

conducted a three-step process to determine what risk, if any, would be posed by the removal of the three functional categories and the revision to the Distribution Provider registration criteria in the NERC Compliance Registry.

- **Step 1:** A review of enforcement data with particular attention to the level of risk and potential of such violations to cause or exacerbate system disturbances was performed to determine the nature and number of instances of noncompliance relating to the proposed removals to determine what, if any, potential risk to the reliability of the Bulk-Power System may result from removal of these functions from the NERC Compliance Registry.
- **Step 2:** NERC and certain Reliability Coordinators and Planning Coordinators conducted technical analysis to assess if the removal of the Purchasing-Selling Entities, Interchange Authorities, and Load-Serving Entities, as well as changes to the Distribution Provider criteria, would significantly increase the risk to reliability or have an adverse impact on the Bulk-Power System, and if so, to what degree.
- **Step 3:** Regional Entities and industry responded to a survey as to whether removal of Purchasing-Selling Entities, Interchange Authorities, and Load-Serving Entities or the proposed threshold change for the Distribution Provider would have an adverse impact on the Bulk-Power System and if so, to what degree.

NERC established the Risk-Based Registration Advisory Group (“Advisory Group”) and the Risk-Based Registration Advisory Group Task Force (“Task Force”) to support and advise the Risk-Based Registration initiative. The Advisory Group is comprised of NERC staff, Regional Entities staff, and U.S. and Canadian industry representatives and was formed to provide input and advice regarding the initiative’s design and implementation. The Task Force

is comprised of subject matter experts from NERC, the Regional Entities, and industry. The results of all three steps were assessed by NERC, the Advisory Group, and the Task Force. NERC determined that the proposed changes will not result in any material risk to reliability.

A webinar was conducted on June 6, 2014, to provide industry with an overview of the Risk-Based Registration Initiative. On August 26, 2014, a draft design framework document and technical report were posted. Accompanying changes to the NERC Rules of Procedure were posted for a 45-day comment period from August 26, 2014 through October 10, 2014. Based on comments received from this posting, NERC refined both the proposed revisions to the Rules of Procedure and draft framework. The revisions proposed by the Risk-Based Registration initiative were endorsed by the Compliance and Certification Committee. The NERC Board of Trustees approved these revisions on November 13, 2014.

#### **B. Deactivation and Reactivation Processes**

NERC maintains the NERC Compliance Registry, which identifies each registered entity and the applicable functional categories for which it is registered. The term “Deactivation” refers to removal of an entity from the NERC Compliance Registry for a specific functional category. As a result of Deactivation, the entity is no longer subject to any compliance obligations with respect to Reliability Standards applicable to that functional category. The term “Deactivation” is used rather than “deregistration,” to avoid confusion over an entity’s status because often an entity is registered for more than one functional category. Therefore, if all functional categories have been deactivated for a given entity, such entity would be “deregistered” and removed from the NERC Compliance Registry. However, the entity’s compliance history would be retained.

In addition to the Deactivation process, NERC is also proposing the addition of a Reactivation process to Appendix 5A Section III, part C. “Reactivation” refers to re-registration pursuant to the NERC Rules of Procedure Section 500 and Appendices 5A and 5B of an entity to the NERC Compliance Registry for a specific functional category or the revocation of, or additions to, a sub-set list of Reliability Standards (which specifies Reliability Standards and may specify Requirements/sub-Requirements) previously granted to an entity. In Section III, part C, NERC proposes a new provision that clarifies that entities can be “reactivated” or “re-registered.” Reactivation would occur where there is a change in circumstances, or where there is a new risk to reliability identified after an entity has been deactivated. Reactivation may be initiated by NERC, a Regional Entity, or an entity with respect to such entity’s own functional categories or sub-set list of Reliability Standards.

*a. Deactivation for Existing Functions in the NERC Compliance Registry*

Registered entities are obligated to update their information in accordance with Section 501.1.3.5 of the NERC Rules of Procedure. Registered entities that believe that they are eligible to deactivate for functional categories are encouraged to discuss this in advance with their Regional Entity. The Regional Entity would in turn notify NERC of changes in registration status. NERC would issue a letter to the registered entity identifying changes in registration status. NERC and the Regional Entity may request additional information, as needed, to process a change in registration status. A quality control step would be added to the registration process to notify relevant entities, including but not limited to, the Planning Authority and Transmission Operator, to ensure deactivation will not cause reliability gaps or issues. NERC and Regional Entities shall act promptly to process registration status changes. Updates to the NERC Compliance Registry are reflected on a monthly basis. Timelines governing deactivation

requests and reviews are set forth in the proposed revisions to Appendix 5A. Entities that are deactivated are not required to comply with Reliability Standards applicable to the function that was deactivated as of the date the particular deactivation becomes effective. NERC proposes the term “Deactivation” be included in Appendix 2, *Definitions Used in the Rules of Procedure*.

*b. Deactivation for Functions Removed from the NERC Compliance Registry*

The functional categories that are proposed for removal from the NERC Compliance Registry (*i.e.*, Purchasing-Selling Entities, Interchange Authorities, and Load-Serving Entities), would be required to take no action. NERC, in concert with the Regional Entities, would remove all such registrations and send a letter to the former entities. Other entities, such as Distribution Providers that are under 75 MW but are 25 MW or greater, would need to apply for Deactivation, if they do not otherwise meet the other criteria for registration.

**C. Functional Entities Proposed for Removal from the NERC Registry Criteria**

For each functional category proposed for removal, NERC provides below: (a) an analysis of the impact on reliability, and (b) enforcement statistics. Collectively, this information and analysis demonstrates that the proposed removal of Purchasing-Selling Entities, Interchange Authorities, and Load-Serving Entities is expected to have little to no impact on the reliability of the Bulk-Power System. Reliability Standards that include or otherwise reference Purchasing-Selling Entities, Interchange Authorities, and Load-Serving Entities would be revised through the standard development process, as appropriate. Any Reliability Standard Requirement that references an entity proposed for deactivation would be moot and not enforceable with respect to that entity.

1. Purchasing-Selling Entities

Purchasing-Selling Entities are the functional entity that purchases or sells, and takes title to, energy, capacity, and reliability-related services. The Risk-Based Registration initiative proposes to remove Purchasing-Selling Entities as functional entities from the NERC Compliance Registry. As demonstrated below, this proposed removal would have little to no effect on the reliability of the Bulk-Power System and this removal is supported by NERC’s review of the nature and potential impact of its compliance and enforcement statistics.

*a. Analysis of Impact on Reliability*

Purchasing-Selling Entities are currently subject to the following NERC Reliability Standards:

<b>Reliability Standards Applicable to Purchasing-Selling Entities</b>	
INT-004-3	IRO-005-3.1 a
IRO-001-1.1	TOP-005-2a

The removal of Purchasing-Selling Entities as a functional entity, and as a consequence as an applicable entity in the above-referenced Reliability Standards, poses a minimal risk to reliability. The proposed revisions to Reliability Standard IRO-001-4 as part of Project 2014-03 eliminate the Purchasing-Selling Entity from the applicability section and the Project proposes to retire Reliability Standards IRO-005-3.1a and TOP-005-2a. As a result, only one Reliability Standard would be impacted by this proposed change—Reliability Standard INT-004-3. The removal of Purchasing-Selling Entities as a functional entity would effectively retire Requirements R1 and R2 of Reliability Standard INT-004-3, although Requirement R3 (which is applicable to Balancing Authorities), would be retained. Requirement R3 of Reliability Standard INT-004-3 will become effective on the first calendar day two calendar quarters after the North

American Energy Standards Board (“NAESB”) Electric Industry Registry is able to accept Pseudo-Tie registrations.<sup>18</sup>

Fundamentally, the function performed by Purchasing-Selling Entities is a market function and not a reliability function. Total interchange (*i.e.*, the sum of individual transactions) rather than individual transactions is important for reliability purposes and this is addressed in the Resource and Demand Balancing (“BAL”) Reliability Standards. The Balancing Authority is responsible for managing interchange and obtains the necessary information from a variety of mechanisms. Therefore, there is little to no risk to reliability created by removing this entity. The BAL Reliability Standards (BAL-001-1,<sup>19</sup> BAL-002-1, BAL-005-0) mitigate the risk from deactivation of the Purchasing-Selling Entities because these Reliability Standards require system awareness, updating of the Area Control Error, and confirmation/evaluation of interchange schedules sufficiently incorporate the requirements of Reliability Standard INT-004-3.

Regional Entities confirmed that they would still receive the necessary information for reliability when the Purchasing-Selling Entity function is removed from the NERC Compliance Registry.<sup>20</sup> The responses stated that the Transmission Owners, Planning Coordinators, and Balancing Authorities have sources for the needed data and would have separate methods to collect any remaining information from the responsible data sources.

For example, in the Northeast Power Coordinating Council (“NPCC”) all market participants adhere to the Independent System Operator market rules and tariffs. These tariffs require participants to provide the Independent System Operators with data for their market

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<sup>18</sup> See implementation plan [http://www.nerc.com/pa/Stand/Project%20200812%20Coordinate%20Interchange%20Standards%20DL/Project%202008-12%20CISDT\\_2014Feb26\\_Implementation%20Plan.pdf](http://www.nerc.com/pa/Stand/Project%20200812%20Coordinate%20Interchange%20Standards%20DL/Project%202008-12%20CISDT_2014Feb26_Implementation%20Plan.pdf).

<sup>19</sup> Reliability Standard BAL-001-2 was submitted on May 13, 2014.

<sup>20</sup> See **Exhibit C**, Risk-Based Registration: Technical and Risk Considerations at p. 5.

operation activities. NPCC then collects its data through working groups for both short-term and long-term reliability studies. When the Purchasing-Selling Entity function is removed, NPCC would continue to be able to collect any necessary data through these alternative methods.<sup>21</sup>

The Southwest Power Pool Regional Entity responded that entities in the region performing the activities described under the Purchasing-Selling Entity function, whether registered or not, are still responsible for entering information into the E-Tag system.<sup>22</sup> The Transmission Operator function sends real-time data via the Inter-Control Center Protocol to the Reliability Coordinator for the Load in its area.

Finally, the Texas Regional Entity stated that data is provided each year via the regional planning and reliability analysis to meet NERC requirements.<sup>23</sup> Real-time data and operational planning information would continue to be provided as required by the Electric Reliability Council of Texas regional rules. These examples from the regions illustrate that information can be obtained through existing sources.

*b. Enforcement statistics*

NERC has determined that since June 18, 2007, no violation solely by a Purchasing-Selling Entity has either caused or exacerbated any significant system events.<sup>24</sup> NERC has reviewed the compliance history and the nature of instances of noncompliance relating to Purchasing-Selling Entities and determined that the removal of Purchasing-Selling Entities from the NERC Compliance Registry poses an insignificant risk to the reliability of the Bulk-Power

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<sup>21</sup> See **Exhibit C**, Risk-Based Registration: Technical and Risk Considerations at p. 12.

<sup>22</sup> *Id.* at p. 5.

<sup>23</sup> *Id.*

<sup>24</sup> In determining the scope of the compliance and enforcement history for these functions in order to determine risk to the Bulk-Power System from noncompliance with these Standards by these functions, the Advisory Group considered confirmed violations, posted Find, Fix, Track, and Report instances of noncompliance, and compliance exceptions. The results of this initial scope was further refined to include only violations that applied to solely functions recommended for removal from the NERC Compliance Registry. For example, if an entity had a single confirmed violation implicating both its Purchasing-Selling Entity and Generator Operator functions, the Advisory Group would not include the violation as a part of its consideration.

System. All prior instances of noncompliance posed minimal risk to the reliability of the Bulk-Power System. NERC's review of the compliance history determined the reviewed prior instances were representative of the minimal risk Purchasing-Selling Entities pose to continued reliability of the Bulk-Power System. Since the inception of the Administrative Citation Process and later the Find, Fix, Track and Report process, NERC has not filed a single Notice of Penalty applicable solely to a Purchasing-Selling Entity.<sup>25</sup>

The first set of NERC Reliability Standards became mandatory and enforceable on June 18, 2007, and since that time, NERC has processed over 8,000 instances of noncompliance (filed, posted, or compliance exception). Of these, there have been 18 applied to solely a Purchasing-Selling Entity function, and another 2 for combined Purchasing-Selling Entity and Load-Serving Entity functions (11 unique registered entities), representing less than a quarter of a percent of the total number of confirmed instances of noncompliance. Four of these instances were of INT-001 and one was for IRO-STD-006-0, both inactive Standards. The remaining instances of noncompliance consist of: (1) INT-004-1 (10 instances); (2) IRO-001 (1 instance); (3) IRO-005 (1 instance); and (4) TOP-005 (3 instances). Between the proposed revisions eliminating Purchasing-Selling Entities from the applicability section as a part of Project 2014-03 and the proposed retirements of Reliability Standards IRO-005 and TOP-005, only Reliability Standard INT-004 is relevant in analyzing compliance history.

All instances of Reliability Standard INT-004 noncompliance were of minimal risk to the Bulk-Power System. For example, the instances of INT-004 noncompliance were all related to

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<sup>25</sup> Full Notices of Penalty are reserved for those issues with a serious or substantial risk to the Bulk-Power System. For example, those involving (a) extended outages, (b) loss of load, (c) cascading blackouts, (d) vegetation contacts (e) systemic or significant performance failures; (f) intentional or willful acts or omissions, (g) gross negligence or (h) other misconduct.

Requirement 2, which requires the updating of Dynamic Interchange Schedule tags.<sup>26</sup> None of these failures led to the need for corrective action or Transmission Loading Reliefs. Finally, either an inter-control center communications protocol network or Supervisory Control and Data Acquisition mitigated the majority of these instances. Additional examples include a minimal risk due to either the scheduled energy profile and the actual average energy profile both being significantly less than the 250 MW in any hour, or due to a short duration (eight hours or less) of the tag not being updated.

Based on this compliance history and the nature of the violations of these Requirements relating to Purchasing-Selling Entities, the removal of Purchasing-Selling Entities from the NERC Compliance Registry poses an insignificant risk to the reliability of the Bulk-Power System.

## 2. Interchange Authorities

Pursuant to the NERC Functional Model, the term “Interchange Authority” was changed to “Interchange Coordinator.” Interchange Authorities/Coordinators are the functional entity that ensures communication of Arranged Interchange for reliability evaluation purposes and coordinates implementation of valid and balanced Confirmed Interchange between Balancing Authority Areas. The Risk-Based Registration initiative proposes to remove Interchange Authorities as functional entities from the NERC Compliance Registry. However, as a result of

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<sup>26</sup> INT-004-3, Requirement R2 provides: R2. The Purchasing-Selling Entity that submits a Request for Interchange in accordance with Requirement R1 shall ensure the Confirmed Interchange associated with that Dynamic Schedule or Pseudo-Tie is updated for future hours in order to support congestion management procedures if any one of the following occurs:

2.1. For Confirmed Interchange greater than 250 MW for the last hour, the actual hourly integrated energy deviates from the Confirmed Interchange by more than 10% for that hour and that deviation is expected to persist.

2.2. For Confirmed Interchange less than or equal to 250 MW for the last hour, the actual hourly integrated energy deviates from the Confirmed Interchange by more than 25 MW for that hour and that deviation is expected to persist.

2.3. The Purchasing-Selling Entity receives notification from a Reliability Coordinator or Transmission Operator to update the Confirmed Interchange.

this proposed change, no entities will be deregistered given that all currently registered Interchange Authorities are also registered as either a Balancing Authority or Reliability Coordinator.

Interchange refers to energy transfers that cross Balancing Authority boundaries. An Interchange Transaction begins with a Request for Interchange, which is a collection of data for implementing an energy transfer between one or more Balancing Authorities. The “Source Balancing Authority” is the Balancing Authority in which the generation (or source) is located. The “Sink Balancing Authority” is the Balancing Authority in which the load (or sink) is located. If there is another Balancing Authority on the scheduling path of an Interchange Transaction, it is known as an “Intermediate Balancing Authority.” The Interchange Authority essentially performs a quality control function in verifying and approving interchange schedules and communicating that information given that the BAL standards require the Balancing Authority to manage total interchange (*e.g.*, BAL-006-2), as do the INT standards (*e.g.*, INT-006-4 and INT-009-2).

*a. Analysis of Impact on Reliability*

Interchange Authorities are currently subject to the following NERC Reliability Standards:

Reliability Standards Applicable to Interchange Authorities		
CIP-002-3	CIP-006-3c	CIP-009-3
CIP-003-3	CIP-006-5	CIP-009-5 <sup>27</sup>
CIP-003-3a <sup>28</sup>	CIP-007-3a	CIP-010-1 <sup>29</sup>
CIP-003-5 <sup>30</sup>	CIP-007-3b <sup>31</sup>	CIP-011-1 <sup>32</sup>
CIP-004-3a	CIP-007-5 <sup>33</sup>	IRO-10-1a
CIP-005-3a	CIP-008-3	
CIP-005-5 <sup>34</sup>	CIP-008-5 <sup>35</sup>	

The removal of Interchange Authorities as a functional entity, and as a consequence as an applicable entity in the above-referenced Reliability Standards, poses a minimal risk to reliability.

For the Critical Infrastructure Protection (“CIP”) Standards, NERC has determined that all Interchange Authorities are also registered as either Balancing Authorities or Reliability Coordinators and therefore would still be responsible for compliance with those Standards.

The proposed revisions to Reliability Standard IRO-010-1a as part of Project 2014-03 remove the Interchange Authority entity from the applicability section. The proposed removal of “Interchange Authorities” from the NERC Compliance Registry is consistent with the recently proposed revisions to the body of Interchange Scheduling and Coordination Reliability Standards, which also removed this function from several Reliability Standards and associated definitions.<sup>36</sup>

<sup>27</sup> This standard is subject to future enforcement.

<sup>28</sup> This interpretation is pending regulatory filing.

<sup>29</sup> This standard is subject to future enforcement.

<sup>30</sup> This standard is subject to future enforcement.

<sup>31</sup> This interpretation is pending regulatory filing.

<sup>32</sup> This standard is subject to future enforcement.

<sup>33</sup> This standard is subject to future enforcement.

<sup>34</sup> This standard is subject to future enforcement.

<sup>35</sup> This standard is subject to future enforcement.

<sup>36</sup> See *Notice of Filing of the North American Electric Reliability Corporation of Proposed Reliability Standards for Interchange Scheduling and Coordination, March 11, 2014.*

*b. Enforcement statistics*

NERC has determined that since June 18, 2007, no violation solely by an Interchange Authority has either caused or exacerbated any significant system events. NERC has reviewed the compliance history and the nature of instances of noncompliance relating to Interchange Authorities and determined that the removal of this function from the NERC Compliance Registry poses an insignificant risk to the reliability of the Bulk-Power System. NERC's review of the compliance history determined the reviewed prior instances were representative of the minimal risk Interchange Authorities pose to continued reliability of the Bulk-Power System.

Of the approximately 8,000 unique confirmed violations or posted issues, there has been only one instance of noncompliance applied to solely the Interchange Authority function. This instance related to Reliability Standard CIP-002, was included in a Find, Fix, Track, and Report posting and posed a minimal risk to the reliability of the Bulk-Power System. The noncompliance occurred because the senior manager signed the annual approval 19 days late, although the annual review of the Critical Assets and Critical Cyber Asset list did occur on time. The entity at issue in this noncompliance is no longer included on the NERC Compliance Registry as an Interchange Authority. Based upon this compliance history and the nature of the issue, potential violations by Interchange Authorities pose little risk to the reliability of the Bulk-Power System.

3. Load-Serving Entities

Load-Serving Entities largely perform a commercial contracting function as the functional entity that secures energy and transmission service (and related Interconnected Operations Services) to serve the electrical demand and energy requirements of its end-use customers. Ownership of Bulk Electric System assets (or any physical assets) is not a condition

for registration as a Load-Serving Entity; owners and operators of Bulk Electric System Elements are registered as other functions. The Risk-Based Registration initiative proposes to remove Load-Serving Entities as functional entities from the NERC Compliance Registry. The rethinking of the role of Load-Serving Entities has been suggested as a reasonable approach in prior FERC orders concerning the registration of entities.<sup>37</sup> For reliability purposes, NERC has concluded that any responsibilities of Load-Serving Entities that have a reliability impact are duplicative of those performed by other reliability functions. Such responsibilities are addressed by Resource Planners, and Balancing Authorities pursuant to Reliability Standards that are applicable to these two entities, as explained below.

*a. Analysis of Impact on Reliability*

Load-Serving Entities are currently subject to the following NERC Reliability Standards:

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<sup>37</sup> See *Direct Energy Services, LLC*, 125 FERC ¶ 61,057 at P 28 (2008) (“While the rethinking of the role of the [Load-Serving Entity] or revision of certain Reliability Standards is a reasonable approach in the long-term, the Commission is concerned that these approaches will require a considerable period of time to implement, leaving a gap in reliability in the meantime.”).

Reliability Standards Applicable to Load-Serving Entities		
BAL-005-0.2b	CIP-009-3	MOD-020-0
CIP-002-3	EOP-002-3.1 <sup>38</sup>	MOD-021-1
CIP-002-3b <sup>39</sup>	FAC-002-1	MOD-031-1 <sup>40</sup>
CIP-003-3	INT-011-1	MOD-032-1
CIP-003-3a <sup>41</sup>	IRO-001-1.1	NUC-001-2.1
CIP-004-3a	IRO-005-3.1a	NUC-001-3 <sup>42</sup>
CIP-005-3a	IRO-010-1a	TOP-001-1a
CIP-006-3c	MOD-004-1	TOP-002-2.1b
CIP-007-3a	MOD-017-0.1	PRC-010-0
CIP-007-3b	MOD-018-0	PRC-022-1
CIP-008-3	MOD-019-0.1	

In total, 31 Reliability Standards apply to Load-Serving Entities, and of these, 11 are CIP Reliability Standards.<sup>43</sup> The CIP Version 5 Standards have removed the Load-Serving Entity as an applicable function and substituted the Distribution Provider function. Version 5 has removed Load-Serving Entities as a Responsible Entity function because the standard drafting team determined that Load-Serving Entities do not own applicable assets. The CIP Version 5 transition guidance states that for those Responsible Entities that do not have any Critical Assets or Critical Cyber Assets under the CIP Version 3 Standards, Regional Entities will forgo off-site audits of the CIP Reliability Standards during the Transition Period.<sup>44</sup> During this transition period, the ERO will not be assessing Load-Serving Entity CIP compliance (*i.e.* the Regional Entities will not be conducting CIP Compliance Audits) until the entities become Responsible

<sup>38</sup> Reliability Standard EOP-011-1, which merges EOP-001-2.1b, EOP-002-3.1 and EOP-003-2 proposes to remove Load-Serving Entities as an applicable entity and was approved by the NERC Board of Trustees on November 13, 2014. See <http://www.nerc.com/pa/Stand/Pages/Project-2009-03-Emergency-Operations.aspx>.

<sup>39</sup> This interpretation is pending filing.

<sup>40</sup> Reliability Standard MOD-031-1 was submitted on May 20, 2014 and proposes to retire Reliability Standards MOD-017-0.1, MOD-018-0, MOD-019-0.1, MOD-020-0 and MOD-021-1.

<sup>41</sup> This interpretation is pending filing.

<sup>42</sup> Reliability Standard NUC-001-3 supersedes Reliability Standard NUC-001-2.1 and is effective January 1, 2016.

<sup>43</sup> As noted herein, two versions of Reliability Standard NUC-001 are included for completeness, but counted only once for purposes of the total number of applicable standards, given that only one version is effective at any given point in time.

<sup>44</sup> Available at: <http://www.nerc.com/pa/CI/Documents/V3-V5%20Transition%20Guidance%20FINAL.pdf>.

Entities as Distribution Providers under Version 5, therefore deregistering Load-Serving Entities at this time should not create a gap in reliability.

Apart from the risk-based registration initiative, there are a number of standard development projects that are proposing to remove Load-Serving Entities as an applicable entity, including:

- Project 2008-02: Proposed Reliability Standards PRC-010-1 and PRC-022-2, propose to remove Load-Serving Entities as an applicable entity. PRC-010-1 and PRC-022-1 (which are applicable to Load-Serving Entities) are proposed for retirement as part of this project.
- Project 2009-03: Proposed Reliability Standard EOP-011-1, which merges EOP-001-2.1b, EOP-002-3.1 and EOP-003-2, is proposing to remove Load-Serving Entities as an applicable entity.<sup>45</sup>
- Project 2014-03: Proposed Reliability Standard IRO-001-4 (which supersedes IRO-001-1.1) removes Load-Serving Entities as an applicable entity and substitutes the Distribution Provider function. Load-Serving Entities and Purchasing-Selling Entities have been removed from IRO-001-1.1 as they are not listed as entities that the Reliability Coordinator directs in the NERC Functional Model. Proposed Reliability Standard TOP-001-3 removes Load-Serving Entities as an applicable entity. IRO-005-3.1a and IRO-010-1a (which are applicable to Load-Serving Entities) are proposed for retirement as part of this project.

Given these proposed changes, only nine Reliability Standards would remain applicable to Load-Serving Entities (BAL-005-0.2b; FAC-002-1; INT-011-1; MOD-004-1; MOD-020-0; MOD-031-1; MOD-032-1, NUC-001-2.1; and TOP-002-2.1b). For these reasons, the removal of Load-Serving Entities as a functional entity, and as a consequence as an applicable entity in the above-referenced Reliability Standards, poses a minimal risk to reliability.

NERC has considered the appropriate role of Load-Serving Entities with respect to NERC Reliability Standards since 2008. NERC has acknowledged that Distribution Providers should be responsible for compliance with many of the Reliability Standards assigned to Load-

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<sup>45</sup> Reliability Standard EOP-011-1 was approved by the NERC Board of Trustees on November 13, 2014.

Serving Entities. As noted above, a Load-Serving Entity is an entity that “secures energy and transmission service to serve the electrical demand and energy requirements of its end-use customers.” This definition is consistent with the fact that most of the Load-Serving functions involve contracting rather than physical operations of the Bulk-Power System. Conversely, the Reliability Standards currently listed as applicable to Load-Serving Entities relate almost exclusively to equipment and physical operations. Viewed in this light, it becomes clear that the Requirements currently assigned to Load-Serving Entities are not actions or responsibilities an entity that secures energy contracts performs. This disconnect is resolved by the proposed removal of “Load-Serving Entities” as an applicable entity.

Several NERC Reliability Standards are applicable to both Load-Serving Entities and Distribution Providers (*e.g.*, FAC-002-1, PRC-010-0, PRC-022-1). Other registered functions already actually carry out certain activities assigned to Load-Serving Entities. For example, Distribution Providers and/or Transmission Owners, which are already subject to the current load-shedding reliability standards, typically carry out load shedding because Load-Serving Entities do not typically own or operate any equipment. For Bulk-Power System reliability purposes, NERC concluded that Load-Serving Entity responsibilities are adequately covered by other reliability functions.

Specifically, across a range of varying market and corporate structures, reliability tasks assigned to Load-Serving Entities (to the extent they are not duplicative of Distribution Provider requirements) generally are either performed by the Resource Planner or Balancing Authority under Reliability Standards, or covered by tariffs, interconnection agreements, or other similar requirements. Thus, for example, while there are Reliability Standards, such as MOD-017, that are applicable only to Load-Serving Entities and no other functions, the proposed elimination of

Load-Serving Entities does not create a reliability gap because the objectives of those Reliability Standards are met through other existing functional entity obligations, so there is insufficient risk to Bulk-Power System reliability to warrant continued Load-Serving Entity registration.

Reliability Standard INT-011 ensures that Load-Serving Entities with intra-Balancing Authority deals submit a Request for Interchange unless it is entered into a congestion management procedure. This standard targets older or grandfathered deals, and none of the entities registered solely for the Load-Serving Entity function have any of these deals. Further, the NAESB standard, Electronic Tagging Functional Specification, requires e-tag data be included for point-to-point transactions including grandfathered deals. For these reasons, the proposed removal of Load-Serving Entities is not expected to create a gap in reliability.

*b. Enforcement statistics*

NERC has determined that since June 18, 2007, no violation solely by a Load-Serving Entity has either caused or exacerbated any significant system events. NERC has reviewed the compliance history and the nature of instances of noncompliance relating to Load-Serving Entities and determined that the removal of this function from the NERC Compliance Registry poses an insignificant risk to the reliability of the Bulk-Power System. NERC's review of the compliance history determined the reviewed prior instances were representative of the minimal risk Load-Serving Entities pose to continued reliability of the Bulk-Power System. Of the approximately 8,000 unique confirmed violations or posted issues, there have been 397 (4.96%) instances of noncompliance applied to solely Load-Serving Entity function, and another two (included above as well in the Purchasing-Selling Entity count) that were for Load-Serving Entity and Purchasing-Selling Entity combined. Of these 397 violations, 370 (93.67%) were of Standards that are or would no longer be applicable to the Load-Serving Entity function. As

discussed above, the only Reliability Standards that would remain applicable to Load-Serving Entities are BAL-005-0.2b, FAC-002-1, INT-011-1, MOD-004-1, MOD-020-0, MOD-031-1, MOD-032-1, NUC-001-2.1, and TOP-002-2.1b). The remaining 27 instances of noncompliance with these Reliability Standards represent only approximately a third of a percent of all unique confirmed violations or posted issues.

Of these 27 remaining instances of noncompliance of the nine Reliability Standards that would remain applicable to Load-Serving Entities, nine instances of noncompliance were for entities that are no longer on the NERC Compliance Registry—all of the 27 instances posed only a minimal risk to the Bulk-Power System. These instances of noncompliance were of Reliability Standards IRO-005-1 (1 instance), MOD-019 (1 instance), MOD-020 (1 instance), and MOD-021 (1 instance), and TOP-002 (23 instances, 9 of which were for entities no longer on the NERC Compliance Registry).

The single Reliability Standard IRO-005 violation was of Requirement 13 and was filed in the Omnibus filing NP10-2-000. The three MOD violations were all self-reported by the same Registered Entity and were posted in a Find, Fix, Track and Report in 2012. These instances were caused by an internal communication and administrative oversight. For the MOD noncompliance, the Load-Serving Entity at issue did not have any interruptible demands or Demand-Side Management programs, and any response to the Regional Entity's request would have been null.

The Reliability Standard TOP-002 instances of noncompliance included eight instances of noncompliance with TOP-002, Requirement R3 and 15 instances of noncompliance with Requirement R18. The noncompliance with Requirement R3 posed minimal risk. For example, one instance was caused by an email error where the entity had transmitted the information but

the transmittal failed; in another, the required data reporting was actually being performed by other entities on behalf of the Load-Serving Entity. The Requirement R18 instances of noncompliance similarly posed a minimal risk. Examples of the Requirement R18 instances of noncompliance include insufficient documentation that neighboring entities used uniform line identifiers where the Regional Entities found that the Load-Serving Entity at issue did in fact use uniform line identifiers; they just did not have adequate documentation of that fact. Based upon this compliance history and the nature of the issues, potential noncompliance by Load-Serving Entities pose little risk to the reliability of the Bulk-Power System.

#### **D. Threshold for Distribution Providers**

Distribution Providers are the functional entities that interconnect an end-use customer Load and the electric system for the transfer of electrical energy to the end-use customer. Distribution Providers provide and operate the “wires” between the transmission system and the end-use customer. For those end-use customers who are served at transmission voltages, the Transmission Owner also serves as the Distribution Provider. Thus, the Distribution Provider is not defined by a specific voltage, but rather as performing the distribution function at any voltage.

NERC proposes to raise the peak load threshold for Distribution Providers from 25 MW to 75 MW and to reflect that an entity’s system must be “directly connected” to the Bulk Electric System. Distribution Providers below 75 MW will be retained if they own or operate Protection Systems such as Under Voltage Load Shedding, Special Protection Systems, Remedial Action Schemes, or other transmission Protection Systems. Based on the Risk-Based Registration design, the Distribution Provider is proposed to be defined as follows:

*III(a) Distribution Provider:*

*III.a.1. Distribution Provider system serving > 75 MW of peak Load that is directly connected to the BES;<sup>46</sup> or*

*III.a.2. Distribution Provider is the responsible entity that owns, controls, or operates Facilities that are part of any of the following Protection Systems or programs designed, installed, and operated for the protection of the BES:<sup>47</sup>*

- *A required Under-Voltage Load Shedding (UVLS) program and/or*
- *A required Special Protection System or Remedial Action Scheme and/or;*
- *A required transmission Protection System; or*

*III.a.3. Distribution Provider that is responsible for providing services related to Nuclear Plant Interface Requirements (NPIRs) pursuant to an executed agreement; or*

*III.a.4. Distribution Provider with field switching personnel identified as performing unique tasks associated with the Transmission Operator's restoration plan that are outside of their normal tasks.*

Sections III.a.3 and III.a.4 are newly proposed provisions related to Reliability Standards. Section III.a.3 mirrors the applicability of Reliability Standard NUC-001-2.1 and version NUC-001-3 (recently approved in Docket No. RD14-13-000). Section III.a.4 mirrors the applicability of Reliability Standard EOP-005-2 and Requirement R11, which is the only Requirement applicable to Distribution Providers. Reliability Standard EOP-005-2 is applicable to “Distribution Providers identified in the Transmission Operators restoration plan.” Requirement R11 provides:

R11. Each Transmission Operator, each applicable Transmission Owner, and each applicable Distribution Provider shall provide a minimum of two hours of System restoration training every two calendar years to their field switching personnel identified

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<sup>46</sup> Ownership, control or operation of Underfrequency Load Shedding (“UFLS”) Protection System(s) needed to implement a required UFLS Program designed for the protection of the Bulk Electric System does not affect an entity’s eligibility for registration pursuant to III.a.1.

<sup>47</sup> As used in Section III.a.2, “protection of the BES” means protection to prevent instability, Cascading, or uncontrolled separation of the Bulk Electric System and not for local voltage issues (Under voltage load shedding) or local line loading management (Special Protection Systems) that are demonstrated to be contained within a local area.

as performing unique tasks associated with the Transmission Operator's restoration plan that are outside of their normal tasks.

The proposed language in III.a.4 marries together the form and function of both the applicability section and Requirement R11 of Reliability Standard EOP-005-2.

*a. Analysis of Impact on Reliability*

NERC conducted a survey of Planning Coordinators in order to assess the impact of modifying the criteria for Distribution Providers and an analysis was conducted by Reliability Coordinators to determine the consequences of the proposed changes. All survey respondents stated that no gaps in reliability would be created by raising the Distribution Provider threshold to 75 MW.<sup>48</sup> Reliability Coordinators have removed over 40 Distribution Providers/Load-Serving Entities from the NERC Compliance Registry since November 2013 and have continued to receive operating data necessary to properly monitor the Bulk-Power System.<sup>49</sup>

The increase in the threshold for Distribution Providers is also consistent with the thresholds of Inclusion I2 (Generating Resources), Inclusion I4 (Dispersed Power Producing Resources) and Exclusion E1 (Radial Systems) of the revised Bulk Electric System definition.

*b. Enforcement statistics*

NERC has determined that since June 18, 2007, no violation solely by a Distribution Provider has either caused or exacerbated any significant system events. NERC has reviewed the compliance history and the nature of instances of noncompliance relating to currently registered Distribution Providers that, due to the recommended revisions to Appendix 5B, will potentially be deregistered and determined that the proposed revisions would not pose a significant risk to the reliability of the Bulk-Power System. NERC's review of the compliance history determined

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<sup>48</sup> See **Exhibit C**, Risk-Based Registration: Technical and Risk Considerations at pp. 13-19.

<sup>49</sup> See *South Louisiana Electric Cooperative Assoc.*, 145 FERC ¶ 61,232 (2013).

the reviewed prior instances were representative of the minimal risk these types of Distribution Providers pose to continued reliability of the Bulk-Power System.

Of the over 8,000 unique instances of noncompliance NERC has processed since 2007, only eight violations (from five unique entities), or .1% of the total confirmed instances of noncompliance, have been for entities that may potentially be deactivated for the Distribution Provider function. None of the noncompliance posed a serious risk to the Bulk-Power System and NERC processed all as either Spreadsheet Notices of Penalty or posted in a Find, Fix, Track and Report. All of these violations were of Reliability Standard PRC-005, four were for Requirement 1 and four were for Requirement 2.

NERC filed two of the instances with moderate risk to the reliability of the Bulk-Power System. The first involved a failure to provide maintenance and testing intervals and the basis for those intervals for 100% of transmission Protection System relays, battery systems, and voltage and current sensing devices. However, the risk was mitigated by the fact the entity was performing monthly inspections of the devices, the devices were monitored by Supervisory Control and Data Acquisition and state estimators, and inspecting personnel had never reported any problems.

The second instance failed to test all ten of the entity's transmission relays within a five-year interval—the testing was five months late. The potential risk was mitigated because all other Protection System devices were tested and maintained within the intervals stated in the program and the entity had alarming in place via a Supervisory Control and Data Acquisition system, which would have immediately notified its headquarters and operations supervisors of any device failures.

The remaining six instances of noncompliance all posed a minimal risk to the reliability of the Bulk-Power System. Most of these instances were due to documentation errors or failure to retain evidence of testing. The remaining represented small percentages (5% or less) of missed devices. In several instances, although the entities failed to document a basis for the maintenance and testing intervals in their Programs, they did actually include maintenance and testing intervals in its Program and completed such testing.

Based on this compliance history and the nature of the violations of these Requirements relating to Distribution Providers that NERC has identified as possibly being eligible for deregistration from the NERC Compliance Registry, NERC has determined such deregistration poses an insignificant risk to the reliability of the Bulk-Power System.

## **V. RISK-BASED APPLICATION OF RELIABILITY STANDARDS**

The risk-based application of Reliability Standards allows NERC to apply sub-sets of Reliability Standards to either individual entities or a class of entities, based on the relevant entities' characteristics. While this is not a new concept, as explained below, NERC is proposing to explicitly include this authority in the NERC Rules of Procedure for clarity. In addition, NERC proposes to establish a sub-set list of Reliability Standards for Distribution Providers that own, control, or operate Underfrequency Load Shedding Protection Systems and do not meet the other criteria for registration as a Distribution Provider.

### **A. Background: Applicability of Reliability Standards**

Reliability Standards include an applicability section that sets forth the functional entities subject to the standard and can also specify the applicable facilities. However, NERC can also apply sub-sets of Reliability Standards through an exercise of its discretion as part of the registration process, to determine whether a particular Reliability Standard or requirement shall

apply to an entity. While NERC cannot expand the applicability of a Reliability Standard, it can narrow it, based on a review of either individual characteristics or common characteristics of a class of entities.

NERC has authority to determine whether a Reliability Standard should apply to a particular entity, or class of entities, based on specific facts and circumstances.

Thus, the proposed revisions to the NERC Rules of Procedure and the codification of NERC's authority to apply Reliability Standards to particular entities based on their unique facts and circumstances are consistent with precedent.

**B. Sub-set of Reliability Standards for Underfrequency Load Shedding-Only Distribution Providers**

As explained below, NERC proposes that Underfrequency Load Shedding-only Distribution Provider or "UFLS-Only Distribution Providers" be required to comply only with NERC and Regional Entity PRC-006 Reliability Standards.<sup>50</sup> A "UFLS-Only Distribution Provider" is a Distribution Provider that is the responsible entity that owns, controls, or operates Underfrequency Load Shedding Protection System(s) needed to implement a required Underfrequency Load Shedding Program designed for the protection of the Bulk Electric System, but that does not meet any of the other criteria for registration as a Distribution Provider.

While there are existing Reliability Standards that are applicable to Underfrequency Load Shedding -Only Distribution Providers by the terms of the standards (*e.g.*, PRC-005), NERC has determined to exercise its discretion to apply a sub-set of Reliability Standards to Underfrequency Load Shedding -Only Distribution Providers (which consists of only NERC and

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<sup>50</sup> Regional Reliability Standard PRC-006-NPCC-1 and PRC-006-SERC-01 will also apply.

Regional Entity PRC-006 Reliability Standards at this time). Sub-set lists of Reliability Standards will be publicly available and maintained periodically.

As provided in the proposed revisions to Appendix 5B, *Statement of Compliance Registry Criteria*, Underfrequency Load Shedding-Only Distribution Providers would be subject to Reliability Standards that identify UFLS-Only Distribution Providers in the applicability section.<sup>51</sup> Reliability Standards that identify “Distribution Providers” would not be applicable to Underfrequency Load Shedding -Only Distribution Providers. Reliability Standards PRC-005-2, PRC-005-3, and PRC-008-0 are not applicable to Underfrequency Load Shedding-Only Distribution Providers. Reliability Standards that apply to Distribution Providers will not apply to Underfrequency Load Shedding-Only Distribution Providers, unless explicitly stated in the applicability section.

Reliability Standard PRC-005 was excluded because due to technological advances, a majority of the newer or modern relays being deployed to the industry today (71%) are self-maintaining and self-checking.<sup>52</sup> This trend continues with several electromechanical relays replaced with one microprocessor relay. The possible reliability benefits of continuing to enforce compliance with PRC-005’s 12-year testing requirements by small UFLS-Only Distribution Providers is further diminished by the risk associated with the mere act of opening up a relay for inspection and maintenance.

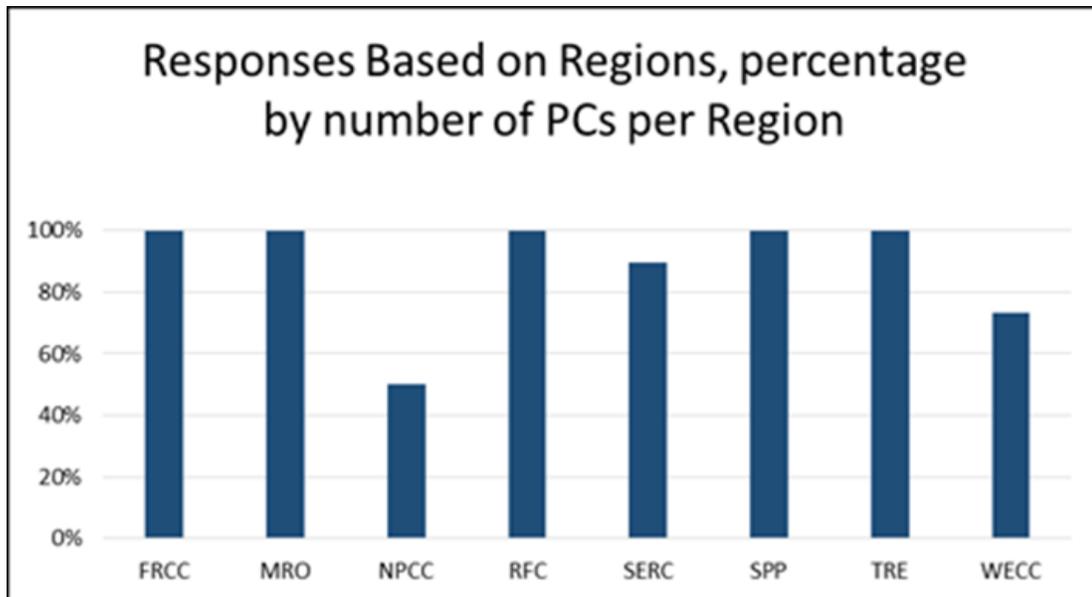
Of the 74 registered Planning Coordinators in the United States, representing approximately 800,000 MW of peak load, 64 Planning Coordinators, representing 680,000 MW

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<sup>51</sup> “UFLS-Only Distribution Providers” are not currently included in the NERC Functional Model or in the Glossary of Terms Used in NERC Reliability Standards, therefore, applicability to UFLS-Only Distribution Providers may occur via the identification of “Distribution Providers” as the functional entity and through the identification of UFLS facilities in the facilities part of the applicability section.

<sup>52</sup> See **Exhibit C**, Risk-Based Registration: Technical and Risk Considerations at p. 17.

(85%) of U.S. peak load, responded to the NERC survey described below. NERC submits that this sample size is representative of the total population.



Of those respondents, Planning Coordinators representing 472,000 MW of load have Underfrequency Load Shedding programs in which Distribution Providers under 75 MW participate. Those Distribution Providers located in these Planning Coordinators areas represent approximately 3,500 MW of load nationwide. As noted above, NERC proposes that Underfrequency Load Shedding -Only Distribution Providers will be subject to compliance solely with Reliability Standard PRC-006. NERC bases this proposal on its conclusion that Underfrequency Load Shedding programs in the United States can withstand 10-25% of the relays of these small entities failing to operate due to maintenance not being performed in accordance with PRC-005, without significant negative effects. Assuming a very conservative 25% Underfrequency Load Shedding failure rate for Underfrequency Load Shedding -Only Distribution Providers, as a result of the elimination of PRC-005 obligations for such entities, 100-250 MW of the load studied in this analysis would fail to trip, making the predicted Underfrequency Load Shedding-armed load at risk of failing to trip less than 0.44%. Assessing

the risk in this manner is appropriate because Underfrequency Load Shedding operates on an area basis, and so failure of a few relays does not pose a significant risk. Based on the respondents' data submittals, the reported information regarding small Distribution Providers' contributions to Underfrequency Load Shedding programs is believed to be representative of the NERC-wide distribution, and major concentrations do not exist in the unreported data that significantly exceed those reported on a regional basis or Planning Coordinator basis. Based on the analysis, requiring Underfrequency Load Shedding-Only Distribution Providers to comply with only NERC and Regional Entity Reliability Standards PRC-006 would sustain reliability, and not significantly increase the risk to reliability. This information is summarized in Table 1, below.

<b>Table 1: Evaluation of Peak Demand and Distribution Provider UFLS Screening</b>	
U.S. Peak Load	~800,000 MW
Total Planning Coordinator load reported (population analyzed)	680,000 MW
Total load of Planning Coordinators with DPs <75 MW	472,000 MW
Total DP load <75 MW	3,500 MW
Number of DPs <75 MW contributing to Planning Coordinator's UFLS program	52 (out of 485)
Planning Coordinator load armed with UFLS (for Planning Coordinators with DPs <75 MW, 25% to 30% of total Planning Coordinator load)	118,000 to 142,000 MW
Reported load shedding contribution to UFLS Programs by DPs <75 MW	1,000 MW
Load contribution to the Planning Coordinator's UFLS program	0.44 % to 0.73 %
Projected armed UFLS load failing to trip because of UFLS relay failures (10-25%) due to not being maintained per PRC-005	100 to 250 MW
Predicted percentage of UFLS-armed load at risk of failing to trip	<0.44%

For these reasons, NERC proposes that Underfrequency Load Shedding-only Distribution Providers or "UFLS-Only Distribution Providers" be required to comply only with NERC and Regional Entity PRC-006 Reliability Standards. Other Reliability Standards that apply to

Distribution Providers, including but not limited to PRC-005-2, PRC-005-3, and PRC-008-0, would not apply to UFLS-Only Distribution Providers, unless UFLS-Only Distribution Providers are explicitly included in the applicability section of these Reliability Standards in future revisions and/or versions.

**C. Process for Applying for a Sub-set List of Reliability Standards for Underfrequency Load Shedding-only Distribution Providers**

The process for an entity to qualify as a “UFLS-Only Distribution Provider” is detailed in Appendix 5A, Organization Registration and Certification Manual. In order to qualify as a “UFLS-Only Distribution Provider,” an entity would be required to apply to the appropriate Regional Entity and within 50 days of the entity’s submission of the registration information to the Regional Entity, the Regional Entity would issue a decision as to whether UFLS-Only Distribution Provider treatment is appropriate.

If the Regional Entity concludes that it is, then the Regional Entity shall forward the information to NERC and NERC will forward the proposed additions or changes to the NERC Compliance Registry to the Regional Entity for review and comment. The Regional Entity has five business days to respond to the proposed changes. If NERC does not receive any comments, the NERC Compliance Registry will be revised. If NERC receives comments, NERC will work with the Regional Entity to the extent changes are needed to the NERC Compliance Registry and will revise accordingly. If the entity whose registration is at issue does not agree with the Regional Entity’s decision regarding UFLS-Only Distribution Provider treatment, the entity may, within 30 days of issuance of the decision, seek review by the NERC-led review panel in Appendix 5A, Organization Registration and Organization Certification Manual, Section III.D. If the entity whose registration is at issue does not agree with the determination of the NERC-led

review panel, the entity may file an appeal with the NERC Board Compliance Committee in accordance with the provisions set forth in Section V of Appendix 5A.

## **VI. PROCEDURAL IMPROVEMENTS TO REGISTRATION**

There are several proposed procedural improvements to registration requirements, roles, and responsibilities, including: (1) the establishment of a materiality test for registration evaluation of whether or not an entity has a material impact on reliability; (2) a review process for certain registration decisions, including requests for sub-set lists of Reliability Standards; (3) development of a common registration form to facilitate uniformity in Regional Entity collection of the information from registration candidates regardless of where they are located in North America; and (4) one-time attestations that allow entities to record that a specific Reliability Standard requirement is “Not Applicable.”<sup>53</sup>

### **A. Materiality Test**

The proposed changes to the Registry Criteria ensure that those who own or operate Bulk Electric System Elements are eligible for registration as owners and operators. Under both the current registration program and the proposed revisions, if an entity meets the Registry Criteria thresholds (Sections I – IV), there is a rebuttable presumption that it has a material impact on the reliability of the Bulk-Power System and it is eligible for registration by NERC and the Regional Entities. NERC and the Regional Entities may exercise discretion *not* to pursue registration of an entity that meets the Registry Criteria thresholds if registration is unwarranted by reliability considerations. In addition, where registration is pursued, an entity that meets the Registry Criteria may nevertheless be able to demonstrate through a materiality test that it is not material to reliability and should not be registered. Conversely, the materiality test may be used to

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<sup>53</sup> As noted herein, NERC is not requesting action on the Common Registration Form or One-Time Attestations, as these administrative improvements do not require changes to the NERC Rules of Procedure.

establish that an entity that does not meet the Registry Criteria thresholds should be registered because it does have a material impact on reliability.

The following non-exclusive list of questions has been identified as relevant to assessing an entity's materiality to reliability. These factors are not determinative of an entity's materiality; additional factors may be relevant based on specific facts and circumstances.

1. Is the entity specifically identified in the emergency operation plans and/or restoration plans of an associated Reliability Coordinator, Balancing Authority, Generator Operator or Transmission Operator?
2. Will intentional or inadvertent removal of an Element owned or operated by the entity, or a common mode failure of two Elements as identified in the Reliability Standards (for example, loss of two Elements as a result of a breaker failure), lead to a reliability issue on another entity's system (such as a neighboring entity's Element exceeding an applicable rating, or loss of non-consequential load due to a single contingency). Conversely, will such contingencies on a neighboring entity's system result in Reliability Standards issues on the system of the entity in question?
3. Can the normal operation, misoperation or malicious use of the entity's cyber assets cause a detrimental impact (*e.g.*, by limiting the operational alternatives) on the operational reliability of an associated Balancing Authority, Generator Operator or Transmission Operator?
4. Can the normal operation, Misoperation or malicious use of the entity's Protective Systems (including Underfrequency Load Shedding, Undervoltage Load Shedding, Special Protection Systems, Remedial Action Schemes, and other Protection Systems protecting Bulk Electric System Facilities) cause an adverse impact on the operational reliability of an associated Balancing Authority, Generator Operator or Transmission Operator, or the automatic load shedding programs of a Planning Coordinator or Transmission Planner (Underfrequency Load Shedding, Undervoltage Load Shedding)?

## **B. Review Process**

To maintain consistency and oversight in registration among NERC and the Regional Entities, the proposed revisions establish a NERC-led, centralized review panel to evaluate requests for: (1) deactivation of, or decisions not to register, an entity that meets Sections I through IV of the Registry Criteria; (2) requests to add an entity that does not meet (*i.e.*, falls below) Sections I through IV of the Registry Criteria; (3) disputes regarding the application of

Sections I through IV of the Registration Criteria; and (4) requests for a sub-set list of applicable Reliability Standards. As explained below, this process is detailed in Appendix 5A, Organization Registration and Certification Manual.

The NERC-led review panel would be comprised of a standing pool of individuals with relevant expertise from NERC and each of the Regional Entities. NERC would select the panel members for a given matter from the standing pool. Panel members for a given matter would need to comply with Subsection 7 of Section 403 of the NERC Rules of Procedure, could not be employed by the Regional Entity whose determination is being reviewed or have otherwise participated in the review of the registration matter, and would need to have the required technical background to evaluate registration matters. Once the review panel makes a decision on one of the matters outlined above, the decision (including the basis) would be shared throughout the ERO and posted publicly on the NERC website, with confidential information redacted in accordance with Section 1500 of the NERC Rules of Procedure.

1. Burden of Proof–Statement of Compliance Registry Criteria, Sections I-IV

With respect to review of the application of the criteria contained in the Statement of Compliance Registry Criteria Sections I through IV, the burden of proof is on NERC and the Regional Entity to demonstrate that an entity meets the Registry Criteria for registration.

2. Burden of Proof – Materiality

The burden of proof with respect to the materiality test, set forth in Appendix 5B, *Statement of Compliance Registry Criteria*, is on the entity making the request, *i.e.*, the entity asking to be excluded from the NERC Compliance Registry (despite satisfying the threshold criteria) and the Regional Entity seeking to include an entity in the NERC Compliance Registry (that does not satisfy the threshold criteria).

### 3. Burden of Proof – Sub-set List of Reliability Standards

The burden of proof with respect to a determination as to whether an entity's compliance obligations should be limited to only a specified sub-set of otherwise applicable Reliability Standards is on the entity requesting such treatment. However, where NERC has established clearly defined criteria for eligibility for a sub-set of applicable Reliability Standards (which may specify Requirements/sub-Requirements) and has identified the sub-set list that may apply to similarly situated entities (*e.g.*, Underfrequency Load Shedding-Only Distribution Providers), the burden of proof to demonstrate that an entity does not meet the criteria for such a sub-set list would be on the Regional Entity and NERC. NERC is continuing to take a measured and balanced approach in determining potential eligibility for additional groups of similarly situated entities.

#### **C. Common Registration Form**

The NERC Registration Functional Group has collaborated with the Regional Entities to develop a common registration form to ensure consistency during the registration process. The use of a common form will facilitate uniformity in Regional Entity collection of the information from registration candidates regardless of where they are located. NERC intends the common form and future IT interface to, among other things, capture key factors relevant to an assessment of an entity's inherent risk without undue complexity. An entity's inherent risk is a function of the potential risks posed by an individual registered entity to the reliability of the Bulk-Power System. Regional Entities determine an entity's inherent risk through periodic assessments that identify relevant factors such as system design, configuration, size, culture of compliance, and any other appropriate indicators on a case-by-case basis.

Risk-Based Registration must necessarily address potential impacts on business processes and tools needed to support the program within both the ERO and industry. In addition, entity risk assessments should take into account information from “neighbor” surveys that Regional Entities issue to Reliability Coordinators as part of certification and other activities to ensure coordination with adjacent entities. This survey approach also may increase awareness and tracking by NERC, Regional Entities, and Reliability Coordinators of entities within each Reliability Coordinator’s footprint and help identify needed revisions to an entity’s registration.

**D. One-time Attestations**

With respect to self-certifications and other compliance monitoring activities, NERC would permit registered entities to record a one-time attestation of “Not Applicable” to a given Reliability Standard requirement. These attestations are appropriate where an existing physical or technical limitation makes a requirement inapplicable, or where the requirement is not applicable for another reason. For example, if the registered entity does not own or operate Underfrequency Load Shedding or Undervoltage Load Shedding assets, it should simply use the “Not applicable” designation.

The Regional Entity would then carry forward this declaration from year-to-year, without requiring the registered entity to repeat the attestation each year, unless circumstances materially change requiring the need for the registered entity to notify the appropriate Regional Entity. NERC or the Regional Entity would have the ability to verify the recordation is correct, on an as-needed basis, but this should be infrequent. In addition, NERC and the Regional Entities should allow multi-Region registered entities to provide a single, one-time attestation to its Lead Regional Entity, updated as needed. In each case, NERC and the Regional Entities would have the opportunity to audit to verify the single attestation is true and correct.

## **VII. PROPOSED REVISIONS TO RULES OF PROCEDURE**

In order to implement the proposed Risk-Based Registration initiative, NERC proposes revisions to the following sections of the NERC Rules of Procedure:

- Section 302: Essential Attributes for Technically Excellent Reliability Standards
- Section 501: Scope of the Organization Registration and Organization Certification Programs
- Appendix 2: Definitions Used in the Rules of Procedure
- Appendix 3D: Registered Ballot Body Criteria
- Appendix 5A: Organization Registration and Certification Manual
- Appendix 5B: Statement of Compliance Registry Criteria

These proposed revisions are discussed in detail on a section-by-section basis, below.

### **A. Section 302: Essential Attributes for Technically Excellent Reliability Standards**

In Section 302.1, NERC proposes to remove references to “Interchange Authorities,” “Load-Serving Entities,” and “Purchasing-Selling Entities” from the list of functional classes to which Reliability Standards may apply, consistent with the proposed removal of these three functional registration categories from Appendix 5B, *Statement of Compliance Registry Criteria*.

### **B. Section 501: Scope of the Organization Registration and Organization Certification Programs**

In Section 501.1, NERC proposes to add Section 501.1.6. This new provision formalizes the availability for a registered entity to submit a request to the Regional Entity at any time for Deactivation or for limitation of its compliance obligations to a sub-set list of Reliability Standards in accordance with Appendix 5A and Appendix 5B.

NERC also proposes to add Section 501.1.7 establishing a NERC-led, centralized review panel, comprised of a NERC lead with Regional Entity participants, in accordance with Appendix 5A and Appendix 5B.

**C. Appendix 2: Definitions Used in the Rules of Procedure**

NERC proposes to add two new definitions to Appendix 2- “deactivation” and “reactivation.” These terms are intended to provide clarity regarding the potential stages of registration for an entity.

“Deactivation” refers to removal of an entity from the NCR for a specific functional category. As a result of deactivation, the entity is no longer subject to any prospective compliance obligations with respect to Reliability Standards applicable to that functional category.”

“Reactivation” refers to re-registration pursuant to the NERC Rules of Procedure Section 500 and Appendices 5A and 5B of an entity to the NCR for a specific functional category or the revocation of, or additions to, a sub-set list of Reliability Standards (which specifies Reliability Standards and may specify Requirements/sub-Requirements) that has been granted to an entity. Reactivation may be initiated by NERC, a Regional Entity or an entity with respect to such entity’s own functional categories or sub-set list of Reliability Standards (which specifies Reliability Standards and may specify Requirements/sub-Requirements).

In addition, NERC proposes to update the definitions of “Generator Operator” and “Generator Owner” to align them with the new Bulk Electric System Definition that became effective on July 1, 2014. Specifically, the references to “generating units” are replaced with “generating Facilities,” *i.e.*, Bulk Electric System generation.

**D. Appendix 5A: Organization Registration and Certification Manual**

Appendix 5A of the NERC Rules of Procedure, Organization Registration and Certification Manual, defines the process for identifying which functional entities must register as owners, operators, and users of the Bulk-Power System for compliance with NERC Reliability

Standards and defines the process for certifying Reliability Coordinators, Balancing Authorities and Transmission Operators.

In Sections I and II, NERC proposes to clarify that the functional registration categories are defined in Appendix 5B, *NERC Statement of Compliance Registry Criteria*. In addition, NERC proposes to remove references to the “Load-Serving Entity,” “Purchasing-Selling Entity,” and “Interchange Authority” entities from lists of functional registration categories, as a result of the proposed removal of these three functional registration categories from Appendix 5B, *Statement of Compliance Registry Criteria*. NERC proposes to add a section regarding service, which clarifies acceptable forms of service. This provision would apply to various types of documents under Appendix 5A, including extensions of time or decisions by the NERC-led review panel.

NERC proposes to add a reference to the NERC-led review panel in accordance with Appendix 5A, *Organization Registration and Organization Certification Manual*, Section III.C and Appendix 5B, *Statement of Compliance Registry Criteria*. Other typographical, clarifying and conforming changes also are made in these two sections.

In Section III, part A, NERC proposes to clarify that entities to be registered for the first time and existing entities that are seeking changes in registration status, including entities that are requesting a sub-set list of applicable Reliability Standards (which specifies the Reliability Standards and may specify Requirements/sub-Requirements), are subject to the registration process steps in Section III of Appendix 5A. The proposed modifications make clear that, at any time, an entity whose registration status is at issue may request expedited treatment and waiver of applicable timelines. Registration processes also are clarified with respect to roles, responsibilities and timing. A new provision also sets out registration processes with respect to

entities that are subject to registration as Distribution Providers that qualify as the new UFLS-Only Distribution Providers.

In Section III, part B, NERC proposes a new provision that sets forth a formalized process for requests for “deactivation,” which results in removal of an entity from the NERC Compliance Registry for specific functional categories and eliminates prospective compliance obligations with associated Reliability Standards for such functional categories.

In Section III, part C, NERC proposes a new provision that clarifies that entities can be “reactivated” or “re-registered.” Where there is a change in circumstances, or where there is a new risk to reliability that is identified, reactivation can be initiated by NERC, a Regional Entity or an entity with respect to the entity’s own functional categories or sub-set list of Reliability Standards. In Section III, part D, NERC proposes that a NERC-led review panel would evaluate requests for Deactivation or decisions not to register, an entity that meets Sections I through IV of the Registry Criteria or requests to add an entity that does not meet (*i.e.*, falls below) Sections I through IV of the Registry Criteria, as well as disputes regarding the application of Sections I through IV of the Registration Criteria and case-by-case requests for a sub-set list of applicable Reliability Standards (which may specify the Requirements/sub-Requirements). Figure A has been updated to depict the proposed revisions described herein.

Section IV contains minor typographical edits. Proposed revisions to Section V clarify that Registered Entities may appeal decisions regarding its listing, functional assignments and determinations regarding the applicability of a sub-set of Reliability Standards. Section V also includes a provision to allow NERC to extend timelines for good cause shown. Section VI contains minor typographical edits.

## **E. Appendix 5B: Statement of Compliance Registry Criteria**

Throughout Appendix 5B, NERC proposes several streamlining and conforming edits, including the use of acronyms for commonly used terms and elimination of outdated or extraneous language. The proposed changes include use of the term “Bulk Electric System,” when referring to the newly defined term, and use of the term “Bulk-Power System,” when referring to the boundaries of NERC and FERC jurisdiction.

NERC proposes to update the definitions of “Generator Operator” and “Generator Owner” to align them with the new Bulk Electric System Definition that became effective on July 1, 2014 and in conformance with the updated definitions in Appendix 2, Definitions Used in the Rules of Procedure. Specifically, the term “units” is replaced with the term “Facilities.” NERC proposes to delete the terms “Interchange Authority,” “Purchasing-Selling Entity,” and “Load-Serving Entity,” wherever they appear, in conformance with the proposed removal of these three functional registration categories from Appendix 5B, *Statement of Compliance Registry Criteria*.

With respect to the Distribution Provider function, there are several proposed revisions to the threshold criteria. First, the existing language regarding direct connection is retained, consistent with NERC’s clarification that it is the entity’s system that is “directly connected” to the Bulk Electric System. In addition, the threshold is increased to 75 MW, while retaining or adding other criteria for registration such as owning or operating Protection Systems important for reliability (Undervoltage Load Shedding, Special Protection Systems or Remedial Action Schemes, and transmission Protection Systems), responsibility for operating a cranking path, or responsibilities for providing services to a nuclear plant. The proposed revisions include the

applicability term “UFLS-Only Distribution Providers.” These entities would only be responsible for complying with NERC and Regional Entity PRC-006 Reliability Standards. .

Section III proposes to remove language that includes Generator Owner/Operators and Transmission Owner/Operators because this criteria is included within the definition of “Bulk Electric System,” and thus in the Section II definitions of Generator Owners/Generator Operators and Transmission Owners/Transmission Operators through the use of the defined term “Facilities” in these definitions. Removal of the Section III language regarding these functional entities ensures full alignment between the Bulk Electric System definition (including the results of the Bulk Electric System exception process) and the Registry Criteria, removing the potential for contradictory results.

Note 1 in the Notes to the above Criteria section adds a new materiality test. This test is comprised of a non-exclusive list of factors for consideration regarding an entity’s material impact on the reliability of the Bulk Electric System. This list recognizes NERC’s existing authority to limit the compliance obligations of a given entity to sub-sets of Reliability Standards (which may specify the applicable Requirements/sub-Requirements).

Note 5 in the Notes to the above Criteria section memorializes NERC’s existing authority to limit the compliance obligations of a given entity registered for a particular function or similarly situated class of entities, as warranted based on the particular facts and circumstances, to a sub-set list of Reliability Standards (which may specify Requirements/sub-Requirements).

## **VIII. CONCLUSION**

As explained herein, three reforms are at the heart of the Risk-based Registration initiative—(1) modifications to the NERC Registry Criteria, including the removal of three functional registration categories (Purchasing-Selling Entities, Interchange Authorities, and Load-Serving Entities), modifications to the threshold for registering entities as Distribution Providers, and alignment of five functional registration categories to the definition of “Bulk Electric System” (Transmission Owners, Transmission Operators, Generator Owners, Generator Operators, and Distribution Providers); (2) the risk-based application of sub-set lists of Reliability Standards, as warranted and supported by technical and risk consideration review and analysis, for entities (including Underfrequency Load Shedding-Only Distribution Providers); and (3) procedural improvements to the registration process. These proposed reforms strengthen the registration process, ensure that the right entities are subject to the right set of Reliability Standards, using a consistent approach to risk assessment and registration, and are an important development in NERC’s approach to managing risks to reliability. Additionally, NERC commits to submitting an informational filing within one year of final action in order to ensure that there are no unintended consequences to reliability as a result of the instant proposal.

The proposed revisions to the NERC Rules of Procedure are included in **Exhibit A**.

Respectfully submitted,

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## **EXHIBITS A—C**

(Available on the NERC Website at

[http://www.nerc.com/FilingsOrders/ca/Canadian%20Filings%20and%20Orders%20DL/Attachments\\_RBR\\_Initiative\\_ROP.pdf](http://www.nerc.com/FilingsOrders/ca/Canadian%20Filings%20and%20Orders%20DL/Attachments_RBR_Initiative_ROP.pdf))