



effective upon issuance, requiring NERC to submit the Rules of Procedure changes by May 20, 2015.<sup>5</sup>

As discussed herein, additional time is needed to comply with the Commission directives in its February 19 Order with respect to the Rules of Procedure revisions. This request is consistent with prior FERC action granting motions for extension of time in certain circumstances where the Commission-directed period may be too short to address all required items.<sup>6</sup>

The additional time is necessary to accommodate each of the required steps within the open, collaborative, and participatory process that applies to developing revisions of the NERC Rules of Procedure. The present request, for a 45-day extension of time, does not pose any risk to the reliability of the Bulk-Power System. This request also does not affect the other items that the Commission requested the ERO address in the May 20, 2015 compliance filing. Should the Commission grant this motion, NERC would submit the Rules of Procedure revisions discussed herein on or before July 6, 2015.

## **I. THE PROCESS FOR REVISING THE NERC RULES OF PROCEDURE**

Section 215(f) of the Federal Power Act provides the framework for revisions to the NERC Rules of Procedure. Section 215(f) states that “[t]he Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change,

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<sup>5</sup> Ninety days from February 19, 2015.

<sup>6</sup> See *Order Certifying North American Electric Reliability Corporation as the Electric Reliability Organization and Ordering Compliance Filing*, 116 FERC ¶ 61,062, P 3 n.2 (2006) (“the Certification Order”) (the Commission noting that “90 days may be inadequate to address clarifications or revisions required by the Commission”). See generally *North American Electric Reliability Corporation Notice Granting Extension of Time*, Docket No. RM13-5-000 (January 13, 2015) (granting of a 10-day extension of time to file revisions to the CIP Standards required by Order No. 791); *North American Electric Reliability Corporation Order Granting Extension of Time*, Docket Nos. RM12-6-000 and RM12-7-000 (June 13, 2013) (granting a one year extension for the effective date of the definition of “Bulk Electric System”).

accompanied by an explanation of its basis and purpose.” The Act goes on to state that the proposed rule or rule change “shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, and not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (c) [of §215].” The Commission’s regulations at 18 C.F.R. §39.10 echo these requirements and require that the filing include “a description of the proceedings conducted by the Electric Reliability Organization . . . to develop the proposal.” The NERC Rules of Procedure are ERO rules as defined in the Commission’s regulations at 18 C.F.R. §39.1.

The NERC Bylaws (Article XI, section 2) specify the following process for NERC Rules of Procedure revisions:

Adoption, Amendment, and Repeal of Rules of Procedure— Except as provided in Section 2 of Article XII, all Rules of Procedure, amendments thereto and repeals thereof shall be approved by the board. . . Unless the board determines that exigent conditions exist requiring adoption of a new Rule of Procedure or amendment or repeal of an existing Rule of Procedure in a shorter time, *all proposals for adoption, amendment and repeal of Rules of Procedure shall be posted on the Corporation’s Web site and subject to public comment for a minimum of forty-five(45) days prior to action by the board.*

*[Emphasis added.]*

The NERC Rule of Procedure §1402, Approval or Amendment or Repeal of the Rules of Procedure, states:<sup>7</sup>

Amendment to or repeal of Rules of Procedure shall be approved by the Board after public notice and opportunity for comment in accordance with the Bylaws of NERC. *In approving changes to the Rules of Procedure, the Board shall consider the inputs of the Member Representatives Committee, other ERO committees affected by the particular changes to the Rules of Procedure, and other stakeholders as appropriate.* After Board approval, the amendment or repeal shall be submitted to the Applicable Governmental Authorities for approval, where authorized by legislation or agreement. No amendment to or repeal of the Rules of

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<sup>7</sup> On May 7, 2012, NERC filed a petition requesting approval of revisions to its Rules of Procedure, which included Section 1400. The Commission approved NERC’s proposed revisions to Section 1400. *North American Electric Reliability Corporation Order Conditionally Approving Revisions to North American Electric Reliability Corporation Rules of Procedure*, 141 FERC ¶ 61,241, at P 10 (2012).

Procedure shall be effective until it has been approved by the Applicable Governmental Authorities.

*[Emphasis added.]*

In addition to the Rules of Procedure and Bylaws, on August 16, 2012, the Board of Trustees approved a NERC staff report on process enhancements and improvements with respect to the development of new or revised NERC Rules of Procedure.<sup>8</sup> These process enhancements include collaborating on the revisions with the Regional Entities and reviewing the proposed revisions with Regional Entity management prior to posting revisions for stakeholder comment.

These process improvements allow for more transparency and opportunity for Regional Entity and other stakeholder participation in the revision process. Under these process enhancements, each posted set of proposed Rules of Procedure revisions requires the drafting of multiple documents to provide a complete record for an informed stakeholder group to consider any proposed changes. The posting also includes a redline version of the Rules of Procedure sections and/or Appendices to which the revisions are proposed. Separate from the redline document, NERC also includes a concise narrative statement of the basis, purpose, and rationale for each proposed revision. Finally, NERC prepares and sends a notice of the proposed revisions advising stakeholders of the posting, providing links or directions to the posting on the NERC website, and identifying the comment due dates.

The process enhancements also require NERC to post the final version of the proposed revisions at least 15 days prior to the date of the Board of Trustees meeting in which the revisions are to be considered. This posting includes a document summarizing the comments received and what action NERC took in response to the comments. In addition to the publicly

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<sup>8</sup> See the NERC Board of Trustees Meeting Agenda for August 16, 2012 at p. 44, *available at* <http://www.nerc.com/gov/bot/Agenda%20Minutes%20and%20Highlights%20DL/2012/0-BOT08-12a-complete.pdf>.

posted document, NERC staff also prepares a matrix for the Board of Trustees that includes a description of the revisions, summaries of the comments received, and NERC's response to those comments.

## **II. REQUEST FOR A 45-DAY EXTENSION OF TIME**

As noted above, NERC requests a 45-day extension of time in order to file Rules of Procedure changes in accordance with the February 19 Order. As described below, good cause exists for this requested extension and proposed schedule modification. First, the additional time will allow for collaboration with Regional Entity and stakeholders. Second, the additional time will not have an impact on addressing other aspects of the February 19 Order or have an impact on the Bulk-Power System.

### **A. Collaboration during the Revision Process**

As explained above, NERC's Rules of Procedure revision process includes several opportunities, through public comment periods, for stakeholder comments, insight, and technical feedback. This feedback process is consistent with the participatory and collaborative nature of the ERO and ensures the development of the best possible Rules of Procedure. However, the time allocated to the various steps limits how quickly NERC can file meaningful modifications to the Rules of Procedure with the Commission.

There may be value in the speedy revision of the NERC Rules of Procedure to incorporate the fundamental risk-based CMEP concepts and program, as those concepts and program are already in place throughout the ERO Enterprise. Nevertheless, there is likely more value to be gained from making those revisions within the established time allowances of NERC's existing rules and processes that promote adequate Regional Entity participation and consideration of other stakeholder feedback. Furthermore, in the absence of a compelling reason

for an accelerated timeline, allowing time for the full NERC Rules of Procedure revision process would provide an opportunity for public comment that may identify potential areas of concern that NERC could address prior to a FERC filing, thereby improving the overall document and the efficiency of the notice and comment process.

Granting NERC's motion for a 45-day extension of the Rules of Procedure revision filing deadline would allow for collaboration, identification of potential issues, and a thorough review of any received stakeholder comments, which would in turn increase the efficiency of the notice and comment process associated with the Commission's review of the proposed revisions.

The Reliability Assurance Initiative was a collaborative effort among NERC, the Regional Entities, and industry to identify and implement changes to enhance the effectiveness of compliance monitoring and enforcement. NERC's request for an extension of time ensures the continuation of the collaborative model and recognizes that Regional Entity and industry participants typically have valuable first-hand experience in implementing the activities to be included in the Rules of Procedure.

As noted above, because these Rules of Procedure revisions affect the obligations of the Regional Entities under the Regional Entity Delegation Agreements, NERC procedures require that NERC staff review the proposed revisions with Regional Entity management prior to posting for public comment. NERC staff and Regional Entity management would continue to consult throughout the process and in response to comments. The 90-day timeline provides too limited a period to ensure a meaningful collaboration with the Regional Entities on the Rules of Procedure revisions. Immediately after the Commission issued the February 19 Order, NERC began outreach to the Regional Entities to address the items FERC identified as requiring additional attention. The ERO Enterprise is currently coordinating and collaborating on a draft set of Rules of Procedure redlines complying with the February 19 Order.

In addition to the value of Regional Entity collaboration, NERC appreciates and relies upon strong industry participation and recognizes that it is essential to the development and implementation of its programs, especially when revising its Rules of Procedure. The process detailed above improves the quality of revisions by taking advantage of industry expertise. NERC considers stakeholder comments in its revision process, then prepares and publicly posts a written response to each comment submitted. Stakeholder comments become part of the formal record that is submitted when seeking regulatory and governmental approval of the Rules of Procedure revisions. Comments offer concrete suggestions for improvement, including possible language and supporting rationale.

For these processes to work as intended, i.e. produce a superior work product, the Regional Entities must have the opportunity to collaborate on the revisions and effective stakeholder interest groups must have access and the opportunity to provide feedback to NERC.

**B. No Impact to Addressing February 19 Order or Reliability**

In addition to providing the opportunity for collaboration, the 45-day extension of time would pose no risk to the reliability of the Bulk-Power System or impede NERC's efforts to address the other matters in the February 19 Order. As a result, the present circumstances do not provide a compelling basis for an accelerated timeline. However, allowing time for the NERC Rules of Procedure revision process would provide an opportunity for public comment that may identify potential areas of concern that NERC could address prior to a FERC filing, thereby improving the overall document and the efficiency of the overall process.

### **III. PROPOSED TIMELINE AND RELATED MILESTONES**

The timeline below illustrates the major milestones and timeframes if the Commission grants the requested 45-day extension.<sup>9</sup>

<b>Post Rules of Procedure revisions for 45-day public comment</b>	<b>March 30, 2015</b>
Public comment period closes	May 14, 2015
Prepare summary and responses to all comments received	May 21, 2015
Incorporate comments and prepare final redline document if changes are made	June 1, 2015
<b>Post final Rules of Procedure changes to NERC website</b>	<b>June 5, 2015</b>
Special session Board of Trustees Meeting	On or before June 22, 2015
<b>File Rules of Procedure revisions at FERC</b>	<b>On or before July 6, 2015</b>

On or before May 20, 2015, NERC will submit a compliance filing to FERC that will address the other areas the Commission identified in its February 19 Order. While this filing would not include the final redline Rules of Procedure changes for FERC approval, it would include a status update regarding the proposed revisions. The inclusion of this overview in the compliance filing is intended to reassure the Commission of NERC's timely work in developing Rules of Procedure revisions consistent with the collaborative nature of NERC's revision process.

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<sup>9</sup> “[I]f NERC requests an extension of time, it must also provide the Commission with a proposed timetable for achieving compliance with those specific elements for which it seeks an extension.” *Supra* n.6.



**IV. CONCLUSION**

WHEREFORE, in consideration of the foregoing, NERC respectfully requests that the Commission grant an extension of time as set forth herein.

Respectfully submitted,

/s/ Sonia C. Mendonca

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Date: March 12, 2015

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing document upon all parties listed on the official service list compiled by the Secretary in this proceeding. Dated at Washington, D.C. this 12<sup>th</sup> day of March 2015.

/s/ Leigh Anne Faugust  
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