
**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

**North American Electric Reliability
Corporation**

)
)

Docket No. RR22-2-000

**JOINT REPLY OF THE NORTH AMERICAN ELECTRIC RELIABILITY
CORPORATION AND NORTHEAST POWER COORDINATING COUNCIL, INC.
TO COMMENTS OF PUBLIC CITIZEN, INC.**

Damase Hebert
Associate General Counsel and Director,
Enforcement
Northeast Power Coordinating Council, Inc.
1040 Avenue of the Americas, 10th Floor
New York, NY 10018
(212)-840-1070
dhebert@npcc.org

*Counsel for the Northeast Power Coordinating
Council, Inc.*

Shamai Elstein
Associate General Counsel
North American Electric Reliability Corporation
1325 G St., NW
Suite 600
Washington, DC 20005
Shamai.elstein@nerc.net

*Counsel for the North American Electric
Reliability Corporation*

April 6, 2022

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

**North American Electric Reliability
Corporation**

)
)

Docket No. RR22-2-000

**JOINT REPLY OF THE NORTH AMERICAN ELECTRIC RELIABILITY
CORPORATION AND NORTHEAST POWER COORDINATING COUNCIL, INC.
TO COMMENTS OF PUBLIC CITIZEN, INC.**

The North American Electric Reliability Corporation (“NERC”) and the Northeast Power Coordinating Council, Inc. (“NPCC” or “Corporation”) respectfully submit the following reply comments addressing concerns and requests raised by Public Citizen, Inc. (“Public Citizen”) in comments filed in response to the March 11, 2022, Joint Petition of NERC and NPCC for approval of the amendments to the NPCC Bylaws.¹ Specifically, Public Citizen requests NPCC to (a) ensure that bona-fide household consumer advocates have two voting seats in Sector 7 and (b) work to ensure that regulators, reliability coordinators, and end-users compose at least half of the voting seats of the board.

In Order No. 672, the Commission found that it “will neither require nor preclude a particular membership structure.”² The Commission expects “membership [structures for the ERO Enterprise] to be open to allow full and fair participation.”³ Upon certifying NERC as the ERO, the Commission reiterated that the “governance [of a Regional Entity] should be left sufficiently open, consistent with the statute, to allow flexibility for Regional Entities to find a governance structure appropriate to their regions.”⁴ “[T]he Commission sees no need to prescribe limits on

¹ NERC and NPCC seek leave to submit this reply and request that the Commission waive Rule 213(a)(2), 18 C.F.R. 385.213(a)(2), for this purpose. This reply should be permitted because it enhances the record by clarifying and completing the record on issues raised by Public Citizen.

² *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards*, Order No. 672, 114 FERC ¶ 61,104 (2006) at PP 170, 173, *order on reh’g*, Order No. 672-A, 114 FERC ¶ 61,328 (2006).

³ Order No. 672 at P 170.

⁴ *N. Am. Elec. Reliability Corp.*, 116 FERC ¶ 61,062 (2006) at PP 544- 45.

board composition, representation of industry segments or otherwise ensure adequate representation beyond the requirements already provided in Order No. 672 and section 215 of the FPA.”⁵

First, NPCC’s current and proposed amended Bylaws are consistent with these requirements and NPCC has not proposed to amend its membership Sectors or board composition. NPCC’s membership structure has long been inclusive to allow for full and fair participation of any entity with an interest in the reliable operation of the Northeastern North American Bulk Power System.⁶

Second, NPCC’s member and board Sectors are not an arbitrary design, nor do they feature redundancies to amplify generation and transmission interests as alleged by Public Citizen. Instead, the Sectors have been carefully and intentionally constructed to ensure diverse perspectives and expertise in NPCC’s activities. This includes differing perspectives of diverse consumers.

For instance, Transmission Owners and transmission dependent utilities each provide different perspectives to NPCC’s membership and Board activities. As their names suggest, Transmission Owners (Sector 1) own transmission facilities, while transmission dependent utilities, distribution companies, and load serving entities (Sector 3) rely on third parties, including Transmission Owners to provide services to consumers. Similarly, Marketers, Brokers, and Aggregators (Sector 5) include entities that provide energy to end use customers. Regulators (Sector 6) have a role in representing consumer interests based on their responsibility to serve the public interest. Finally, consumer advocates are specifically authorized to be representatives in Sector 7. This Sector designation facilitates the ability of consumer advocates to be directly

⁵ *Id.* at P 544.

⁶ See Section 4.2 of Amended and Restated Bylaws of Northeast Power Coordinating Council, Inc.

included in all NPCC member activities, including Reliability Standard development. Clearly, there is a meaningful difference among these Sectors that is not recognized by Public Citizen in their comments. It is also important to note the NPCC Board includes two Independent Directors (Sector 8) and an Independent Board Chair.

Third, Public Citizen's request is well beyond the scope of this proceeding. The March 11 Petition requests the Commission to approve the proposed amendments to the NPCC Bylaws.⁷ However, Public Citizen does not oppose any of the proposed amendments to the NPCC Bylaws. Instead, Public Citizen is attempting to use this proceeding to have the Commission take some unknown action that would impermissibly meddle in the selection of the NPCC Board of Directors and force a very specific composition of the NPCC Board of Directors. Such an action would violate the NPCC Bylaws themselves and would raise a host of other jurisdictional issues.

Finally, there are no instances where one company represents two Sectors on the NPCC Board, as alleged by Public Citizen. The representative Director in Sector 7 was selected to the NPCC Board based on his role with the New York State Reliability Council, which qualifies for Sector 7. He also happens to be an employee, although not an executive, of another entity that is represented by a Director in Sector 1.

⁷ NERC and NPCC, *Joint Petition of the North American Electric Reliability Corporation and Northeast Power Coordinating Council, Inc. for Approval of Amendments to the Bylaws of Northeast Power Coordinating Council*, Docket No. RR22-2-000 (March 11, 2022).

For the foregoing reasons, NERC and NPCC respectfully request that the Commission approve the proposed amendments to the NPCC Bylaws, as described in the March 11, 2022, Joint Petition.

Respectfully Submitted,

/s/ Damase Hebert

Damase Hebert

Associate General Counsel and Director, Enforcement

Northeast Power Coordinating Council, Inc.

1040 Avenue of the Americas, 10th Floor

New York, NY 10018

(212)-840-1070

dhebert@npcc.org

Counsel for Northeast Power Coordinating Council, Inc.

/s/ Shama Elstein

Shama Elstein

Associate General Counsel

North American Electric Reliability Corporation 3353 1325

G Street, N.W., Suite 600

Washington, DC 20005

(202) 400-3000

Shama.elstein@nerc.net

Counsel for the North American Electric Reliability Corporation

April 6, 2022