

# NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION GOVERNANCE GUIDELINES

The Board of Trustees (the “Board”) of the North American Electric Reliability Corporation (“NERC”) has adopted the following Governance Guidelines to provide a framework for the general governance of NERC and its Board and committees.

## BOARD OF TRUSTEES

### 1. Role of the Board of Trustees.

The Board is elected by the Member Representatives Committee (“MRC”) to act on behalf of a broad and diverse stakeholder community that looks to the Board for leadership on the reliability issues facing the electric industry. Each Trustee has a responsibility to be open and honest, though respectful, in communications with others and to be fair and impartial in all aspects of his or her deliberations and decision-making. Each Trustee has a responsibility to constructively engage in furthering NERC’s mission, including a responsibility to raise issues or viewpoints of importance to that mission even when those issues or viewpoints appear to be unpopular.

Specifically, each Trustee has three primary duties:

- **Duty of Care** requires the Trustee to use the care that an ordinarily prudent person would exercise in a like position and under similar circumstances in respect to performing the functions of a member of a board of directors. This duty of care is generally thought to have two components: the time and attention devoted to the organization’s affairs (including preparation for and attendance at meetings) and the skill and judgment reflected in decisions that affect the organization.
- **Duty to Adhere to NERC’s Mission** requires the Trustee’s faithful promotion of NERC’s mission to ensure the reliability of the bulk electric system in North America rather than his or her own financial or other interests or the interests of another person or organization. This duty includes compliance with NERC’s conflict of interest guidelines and policies.
- **Duty to Adhere to the Law and to Highest Ethical Standards** requires that the Trustee devote himself or herself to assuring that the organization operates to further its stated objectives in compliance with legal requirements and the highest ethical standards.

### 2. Size and Election of the Board of Trustees.

The number of independent Trustees and their election shall be determined as set forth in NERC’s Bylaws, as amended from time to time.

### 3. Trustee Succession.

The Board is committed to ensuring that NERC continues to have as effective a board as possible, given the importance of its responsibilities. Achieving this goal involves balancing the value of maintaining experience and continuity with the value of bringing in new ideas and fresh perspectives. The NERC Nominating Committee should observe the following guidelines in proposing nominees for election as independent Trustees:

- Each year, the Nominating Committee should include in its report to the MRC a calculation of the average tenure of the independent Trustees. The Nominating Committee should endeavor to keep the average tenure of independent Trustees below six years.

- To the extent feasible, the Nominating Committee should determine, prior to soliciting suggestions for candidates, whether the Committee expects that one or more incumbent Trustees will not be re-nominated.

No independent Trustee may be re-nominated or reappointed after he or she has served on the Board for twelve consecutive years, unless at least one year has elapsed between the end of service on the Board and the subsequent re-nomination or reappointment.

#### **4. Process for Selection of Board of Trustees Chair, Chair-Elect and Vice Chair.**

The Chair of the Board of Trustees (the “Chair”) shall be elected annually by the Board, although it is generally intended that an individual selected to serve as the Chair shall serve for at least three one-year terms. Depending upon feedback from annual self-assessments, his or her willingness to serve and remaining time they are eligible to serve as a Trustee, the Chair will be eligible to serve for more than three years. The length of service could be less than three years if the proposed Chair will be term-limited.

Approximately 18 months before the Chair’s expected end of service as Chair, the Corporate Governance and Human Resources Committee of the Board (the “CGHRC”) will send a confidential written survey to all Trustees asking them to assess who would be best qualified for the position and also if they have the interest in, time availability for, and qualifications to serve as Chair. The current Chair and the Chair of the CGHRC will review the survey information and determine the process for selecting the next Chair. This process will take into account any conflicts in the selection, at which time they may propose a small subset of the Board to serve as a Board Chair Nominating Committee, or, if the selection is obvious, may make a recommendation to the full Board for the next Chair. Any recommendation for Chair should include the expected length of service as Chair.

The Trustee selected to be the next Chair will serve as Vice Chair and Chair-Elect during the current Chair’s final year of service. For all other years than the year the Chair-Elect serves as Vice Chair as contemplated herein, the Vice Chair of the Board will be the Trustee with the most years of service who is not serving as a committee chair, unless such person is unwilling to serve or the Board determines to name another individual as Vice Chair.

If the Chair leaves the position before the end of his or her expected service as Chair, the current Vice Chair will not automatically become Chair, but will act as the Acting Chair as contemplated by NERC’s Bylaws. In that event, the CGHRC will recommend a Trustee to serve as Chair for the remainder of the year. If the Board has already selected a Chair-Elect, it is contemplated that the CGHRC will recommend that individual to serve as Chair for the balance of the year, with it also being contemplated that such individual would serve as Chair for at least three one-year terms, consistent with the foregoing provisions of this Section. If there is no Chair-Elect, the process for selecting the Chair will begin promptly consistent with the foregoing.

#### **5. Duties and Responsibilities of the Chair.**

- (a) The Chair shall provide leadership to the Board with respect to its functions as described in the Bylaws and Certificate of Incorporation and as otherwise may be appropriate. The Chair shall act as chair of meetings of the Board and of meetings of the Members and, for such purpose, will prepare, with NERC’s chief executive officer (the “CEO”), the agenda for each meeting.
- (b) The Chair shall make recommendations to the CGHRC with respect to Board committee members and chairs.
- (c) The Chair shall be an ex-officio member, with full rights of participation including voting, of all Board committees.

- (d) The Chair shall be the official spokesperson for the Board.
- (e) The Chair shall work with the CEO and the chairs of the Board committees to coordinate the schedule of meetings for such committees.
- (f) The Chair shall work with the CEO to ensure that the Board's requirements for appropriate information in support of its functions and duties are met.
- (g) The Chair shall reflect to the CEO the interests and concerns of the Board and other constituencies. The Chair shall also reflect to the Board any concerns management has in regard to the role of the Board or individual Trustees.
- (h) The Chair shall regularly consult with Trustees to evaluate the effectiveness of the Board and the individual Trustees in contributing to the objectives and responsibilities of the Board as a whole.
- (i) The Chair shall ensure that a formal annual performance review of the CEO is carried out by the CGHRC and is reviewed and approved by the Board. The Chair shall meet at least annually with the CEO to formally provide feedback based on this performance review.
- (j) The Chair shall present to the Board, from time to time, an evaluation of the pace, direction, and organizational strength of NERC.
- (k) The Chair shall carry out such other duties as may be reasonably requested by the CEO or the Board as a whole depending on need and circumstances.

## **6. Confidential Information.**

To the extent permitted by law, each Trustee must maintain the confidentiality of (1) any confidential or proprietary NERC information disclosed or available to the Trustee; (2) any confidential or proprietary information of NERC members, or market participants to which the Trustee has access by virtue of his or her position with NERC; and (3) any confidential or proprietary information of others that has been provided to NERC on condition of confidentiality.

## **7. Representation Policy.**

Individual Trustees should act in a manner that recognizes that they do not represent NERC, nor are they authorized to speak or communicate on behalf of NERC, unless authorized to do so by the Chair or the CEO.

A Trustee may indicate that he or she is a NERC Trustee, provided that this is done for identification purposes and provided that opinions expressed and statements made are attributed solely to the individual involved rather than to the Board or NERC. Trustees may state NERC policy where this can be done accurately. They may also describe NERC activities, plans and involvement where this can be done accurately and is consistent with requirements to maintain confidentiality.

Except as authorized above, NERC's Chair and CEO, or any person authorized by them, shall represent NERC and speak on its behalf on all matters.

## **BOARD AND COMMITTEE MEETINGS**

## **8. Policy with Respect to Meetings of the Board.**

Meetings (face-to-face and by teleconference) of the Board and of committees established by the Board from time to time shall be open to NERC members and to the public, subject to reasonable limitations such as the availability and size of meeting facilities; provided that a meeting may be held in or adjourned to closed or executive session where the subject matter of the meeting so warrants, consistent with the provisions of NERC's Bylaws and these Governance Guidelines.

## 9. Types of Meetings.

In general, a meeting of the Board or any committee established by the Board shall be conducted as one of the following types of meetings:

- **Open Meeting.** NERC members and the public may attend and observe the deliberations of the Board or any committee during such meetings or portion of the meetings. NERC members and the public may participate during the meeting in the sole discretion of the presiding officer for the meeting.
- **Closed Meeting.** NERC members and the public may not attend or observe the deliberations of the Board or committees. The Board or committee may invite particular persons to participate in a closed meeting where such participation would further the business of the Board or committee.
- **Executive Session.** NERC members and the public may not attend or observe the deliberations of the Board or its committees. In addition, NERC staff will be excused from the meeting except to the extent necessary for the Board or committee to conduct business, provided that except for the Board or any committee of Trustees, at least one NERC staff member shall be present to record any necessary minutes of such meeting.

## 10. Criteria for Holding Closed Meetings and Executive Sessions.

A meeting or a portion of a meeting may be closed to discuss matters of a confidential nature, including but not limited to personnel, compliance and enforcement, litigation, or commercially sensitive or critical infrastructure information of any entity, as contemplated by NERC's Bylaws. A meeting or a portion of a meeting may be held in executive session when, in the opinion of the presiding officer for the meeting, it is appropriate to excuse NERC staff from the meeting to encourage candid discussion regarding Trustees, management and personnel matters, provided that except for the Board and any committee of Trustees, at least one NERC staff member shall be present to record any necessary minutes of such meeting. It will be the customary practice of the Board to hold an executive session in conjunction with regularly scheduled meetings.

It is contemplated for all committees established by the Board, that all meetings shall be considered open meetings. Notwithstanding the foregoing, with respect to the following committees of the Board, these general rules shall apply:

- **CGHRC.** Generally open, but will be closed for discussion of matters related to personnel and compensation.
- **Finance and Audit Committee.** Generally open, but will be closed for discussion of compensation and benefit matters, meetings with NERC's external auditors and items related to competitive contracts.
- **Compliance Committee.** Generally closed, but may be open for items of general applicability.
- **Nominating Committee.** Generally closed, but may be open for items of general applicability.
- **Standards Oversight and Technology Committee.** Generally open, but will be closed for items related to competitive contracts and matters dealing with critical infrastructure information.
- **Enterprise-wide Risk Committee.** Generally closed.

## 11. Procedures for Meetings.

Notice of the dates, places, times and status of meetings of the Board and committees established by the Board shall be provided by NERC in accordance with the requirements of NERC's Bylaws, applicable law and the governing documents of the committee, as applicable. NERC will post all non-confidential material for any meeting within 24 hours of when such material is provided to the Board or committee, as applicable.

For open meetings by teleconference, NERC will provide audio conferencing that includes two levels of access: one for meeting participants and another for NERC members and the public. Meeting participants will be able to hear and speak to each other. NERC members and the public will have listen-only access to the teleconference. NERC will provide the appropriate dial-in numbers with the meeting agenda.

Access by NERC members and the public to meetings or teleconferences may be subject to reasonable limitation, based on availability and size of facilities.

The Board and Board committees may, in accordance, with the NERC Bylaws, take action without a meeting pursuant to written consent.

## **12. Minutes of Meetings.**

The Board, Board committees, standing committees, standing committee executive committees, subcommittees, task forces and working groups shall each keep and post written minutes of each meeting. Minutes should contain the following information unless otherwise agreed to by NERC's General Counsel:

- Place, date and time of meeting
- When and how notice was given
- Meeting chair and officers present
- List of attendees and whether quorum was present
- Statement that minutes from prior meeting were reviewed, amended if necessary, and approved
- Description of the substance of matters discussed (presentations and written materials considered should be included as exhibits, if feasible, or specifically identified and incorporated by reference)
- Statement of specific actions taken (including moving party and, where the required number of affirmative votes is other than a simple majority, the number of votes for and against)

In general, minutes are not a transcript of the meeting. The minutes should be in sufficient detail to apprise the reader of the general tenor and scope of the discussion (including minority positions), without attempting to record the statements or opinions of each person speaking. This policy is not intended to change existing policies with respect to confidentiality of data. Minutes of non-public meetings should be kept on a non-public basis or prepared in a manner that does not disclose non-public information. A copy of final minutes should be posted to the NERC Web site and made available to each committee member promptly after each meeting. Minutes from one meeting should be reviewed, amended (if necessary), and approved at the following meeting.

## **13. Setting of Board Agenda.**

The Chair shall prepare with the CEO the agenda for each meeting.

## **ETHICS AND CONFLICTS OF INTEREST**

### **14. Ethics and Conflicts of Interest.**

It is NERC's policy that its Trustees, officers, and employees ("NERC Representatives") maintain the highest ethical standards in their business conduct.

NERC Representatives shall avoid and refrain from involvement in or situations where there is a conflict of interest ("Conflict"). In general, a Conflict arises where a NERC Representative's personal financial interest is affected or may reasonably appear to be affected by his or her actions or decisions in his or her

capacity at NERC. NERC will depend upon the integrity of each NERC Representative to complete his or her own assessment of individual Conflicts.

NERC's Bylaws set forth the requirements for Trustees with respect to disposition of financial interests or service for any other organization that could result in a Conflict, provided that if a financial interest that would give rise to a Conflict results from a gift, inheritance, distribution of marital property or other involuntary acquisition, divestiture of such interest must occur within 90 days of acquisition.

With respect to any NERC Representative who is an officer or employee, such NERC Representative shall divest financial interests that would give rise to a Conflict within 60 days of the effective date of his or her employment with NERC. If a prohibited financial interest that would give rise to a Conflict results from a gift, inheritance, distribution of marital property or other involuntary acquisition, divestiture must occur within 90 days of acquisition.

A NERC Representative must recuse himself or herself from participation in any particular matter involving the subject of the Conflict until the Conflict is resolved. Where, in the opinion of the Chair or the CEO, a Conflict exists or may exist but does not as a practical matter have any material impact on NERC or on the decisions or actions of the NERC Representative, the Chair or the CEO may, after consultation with NERC's General Counsel, in writing permit such Conflict to continue.

It will be considered a Conflict if a NERC Representative requests, accepts, or offers anything with a value of more than \$100, including but not limited to travel expenses, vacations, property, discounts, contributions, goods or services from an industry stakeholder or any other person or entity doing business with NERC. Acceptance or provision of an occasional business-related meal or transportation is permissible when the value involved is not excessive and clearly will not place NERC Representatives under any obligation to the donor or recipient. Gifts that constitute a Conflict should be returned or offers declined, with an appropriate explanation. If a NERC Representative receives a prohibited gift that is not returnable (e.g., perishable), such gift may be given to an appropriate charity.

#### **15. Process for Reviewing Conflicts of Interest.**

Annually, NERC's General Counsel shall distribute to each NERC Representative a copy of NERC's conflict of interest policies, together with a list of the registered entities from the NERC Compliance Registry, together with a questionnaire that requires the disclosure of potential conflicts of interest. New independent Trustees and employees should complete the questionnaire upon joining NERC. The General Counsel shall review the completed questionnaires each year and communicate with the individuals involved about any potential conflicts. Each individual must recuse himself or herself from any particular matter involving an entity that presents a conflict of interest until such time as the conflict of interest is resolved. The General Counsel shall report the results of the review of the conflict of interest questionnaires to the CGHRC. Conflicts involving independent Trustees shall also be reported to the Chair. The General Counsel shall provide consultation and advice on matters of possible conflicts of interest as the occasion warrants.

### **COMPENSATION**

#### **16. Compensation of Independent Trustees.**

Consistent with its Mandate, as amended from time to time, the CGHRC shall annually review the compensation plan for independent Trustees. The objective of the Committee's review is to assure that NERC is able to attract and retain individuals who have the necessary skills, experience, personal

characteristics and commitment to be an effective Trustee, taking into account, in particular, the workload of Trustees, the alternative opportunities available to those NERC wishes to attract and retain, and the stringent conflict-of-interest provisions governing NERC Trustees.

In conducting the review of compensation, the CGHRC should evaluate the amount of work and level of responsibility Trustees are being asked to undertake and, from time to time, but no less than every three years, examine market data with respect to the compensation of the members of the governing boards of other relevant organizations utilizing an independent compensation consultant.

Such market data may include available compensation data from the Regional Entities, RTO/ISOs, investor owned utilities (meeting such characteristics as are approved by the Committee in consultation with the independent compensation consultant) and a general industry peer group (as approved by the Committee in consultation with the independent compensation consultant).

As an initial compensation target benchmark range, the Committee shall determine the dollar range between the 50<sup>th</sup> percentile of RTO/ISO independent director compensation and the 25<sup>th</sup> percentile of IOU independent director compensation, as reflected in the most recent independent compensation consultant report. Each Committee review should evaluate the appropriateness of continued utilization of this target benchmark range and whether changes should be considered in connection with modifications to compensation. The Committee's recommendations should, in principle, be within the benchmark range and influenced by the overall objective of the Committee's review and specific considerations as set forth above.

Any potential modifications to the Trustee compensation plan shall be discussed during an open meeting of the CGHRC, together with a summary of any report from the independent compensation consultant, and the Committee shall report its recommendations to the Board at an open Board meeting. In developing its recommendation, the CGHRC shall establish a compensation target for the independent Trustees, the Board Chair and Vice Chair, Committee Chairs and such other Trustee positions as may be appropriate, as well as a timeline for implementation of any changes.

Any modifications to the compensation plan for independent Trustees shall be approved by the Board during an open meeting, and shall take effect as determined by the Board.

#### **17. Compensation of Chief Executive Officer, Other Officers and Key Employees.**

The annual compensation, including the bonus, of NERC's CEO shall be determined by the Board, after review and recommendation by the CGHRC and after taking into account the degree to which NERC and the CEO have achieved established goals. In its deliberations, the CGHRC shall make use of market data as it deems appropriate.

The annual compensation, including bonuses, of NERC's other officers shall be reviewed and approved by the CGHRC, after recommendations from the CEO. The CGHRC shall make use of market data as it deems appropriate, and shall also consider the degree to which NERC and the officer have achieved established goals.

The annual compensation of other key employees shall be determined by the CEO, taking into account the degree to which NERC and personal goals have been achieved, after consultation with the CGHRC concerning overall corporate salary and bonus structure. The CEO shall use market data as part of the consideration. The recommendations of the CEO must be documented in a memorandum to NERC's Chief Financial Officer ("CFO") and the Chair of the CGHRC.

## OTHER MATTERS

**18. No Personal Loans to Directors or Executive Officers.**

It is NERC's policy to not extend any loans to any NERC officer or Trustee.

**19. Process for Review of IRS Form 990.**

Each year NERC's independent auditor or such other tax preparer as is selected by the CFO after consultation with the Finance and Audit Committee shall prepare a draft of IRS Form 990, working with the CFO. The CFO may also engage the services of outside counsel in preparing the draft Form 990. Prior to filing the Form 990, the CFO and General Counsel shall review the draft Form 990. The draft Form shall be sent to all members of the Board for review, and the Finance and Audit Committee and the CGHRC shall include a review of the draft Form 990 on a meeting agenda. The minutes of the meetings of the Finance and Audit Committee and the CGHRC shall record the timing and nature of the review. The CFO shall prepare a memorandum for the file each year describing the timing, nature and individuals involved in the preparation and review of the Form 990.

**20. Amendments to these Guidelines.**

These Governance Guidelines may be amended by the Board from time to time. The CGHRC shall from time to time review these Governance Guidelines and recommend any amendments to the Board.

**Approved by Board of Trustees February 6, 2014**

**As amended by Board of Trustees November 5, 2015**

**As amended by Board of Trustees May 5, 2016**