

1703. Challenges to NERC Determinations of BES Exception Requests under ROP Section 509

1. This Section 1703 establishes the procedures to be followed when a Submitting Entity or Owner wishes to challenge a determination by NERC to approve or to disapprove an Exception Request or to terminate an Exception under Section 509.

2. A Submitting Entity (or Owner if different) aggrieved by the decision of NERC to approve or disapprove an Exception Request or to terminate an Exception with respect to any Element may, within 30 days following the date of the decision, file an appeal with the NERC Director of Compliance Operations, with copies to the Regional Entity and the Submitting Entity or Owner if different. The appeal shall state the basis of the objection to the decision of NERC. The Regional Entity, and the Submitting Entity or Owner if different may file a response to the appeal within 30 days following the date the appeal is filed with NERC.

3. The NERC Board of Trustees shall appoint a standing panel to decide appeals from NERC decisions to approve or to disapprove Exception Requests or to terminate Exceptions. The standing panel, which may contain alternates, shall consist of at least three appointees, one of whom must be a member of the NERC staff, who are knowledgeable about Bulk Electric System reliability (including but not limited to operations and planning), who were not involved at any earlier stage of the review of the Exception Request or the Exception, and who do not have a direct financial or business interest in the outcome of the appeal. The panel shall consider the entire record of the Exception Request or the termination of the Exception and decide the appeal within 90 days after being assigned the appeal by NERC.

4. The Submitting Entity, or Owner if different, aggrieved by the decision of the panel may request that the NERC Board of Trustees Compliance Committee review the decision by filing a request for review and a statement of reasons with NERC's Chief Reliability Officer within 30 days following the date of the panel decision. The Board of Trustees Compliance Committee may, in its discretion, decline to review the decision of the panel, in which case the decision of the panel shall be the final NERC decision. Within 90 days of date of submission of the request for review under this Section 1703.4, the Board of Trustees Compliance Committee may either: (a) issue a decision on the merits, which shall be the final NERC decision, or (b) issue a notice declining to review the decision of the panel, in which case the decision of the panel shall be the final NERC decision. If no written decision or notice declining review is issued within 90 days following the date of submission of the request for review, the appeal shall be deemed to have been denied by the NERC Board of Trustees Compliance Committee and this will have the same effect as a notice declining review.

5. The Submitting Entity, or Owner if different, may appeal the final NERC decision to, or seek review of the final NERC decision by, the Applicable Governmental Authority(ies), in accordance with the legal authority and rules and procedures of the Applicable Governmental Authority(s). Any such appeal shall be filed within thirty (30) days following the date of the decision or of the notice

declining review of the NERC Board of Trustees Compliance Committee or the expiration of the 90 day period specified in Section 1703.4, whichever is applicable, or within such other time period as is provided for in the legal authority, rules or procedures of the Applicable Governmental Authority.