

**PROCEDURE FOR REQUESTING AND RECEIVING
AN EXCEPTION FROM THE APPLICATION
OF THE NERC DEFINITION OF BULK ELECTRIC SYSTEM**

1.0 INTRODUCTION

1.1 Purpose

This Appendix to the Rules of Procedure of the North American Electric Reliability Corporation (NERC) provides the procedure (“Exception Procedure”) by which an entity may request and receive an Exception from the application of the NERC definition of the Bulk Electric System (“BES”). Such an Exception herein may have the effect of either including within the BES an Element or Elements that would otherwise be excluded by application of the NERC definition of the BES (“BES Definition”) or excluding from the BES an Element or Elements that would otherwise be included by application of the BES Definition. This Appendix is intended to implement authorization granted by FERC to allow such Exceptions from the BES Definition.¹

An entity must request and obtain an Exception pursuant to an Exception Request under this Exception Procedure before any Element that is included in the BES by application of the BES Definition shall be excluded from the BES. Likewise, an entity must request and obtain an Exception pursuant to an Exception Request under this Exception Procedure before any Element that is excluded from the BES by application of the BES Definition shall be included in the BES.

An entity unable to determine the status of an Element by application of the BES Definition also may submit an Exception Request under this Exception Procedure to obtain a determination of whether the Element is or is not within the BES.

The owner of the Element to which the Exception Request applies (“Owner”) or, with respect to an Element owned by another Registered Entity, any applicable Regional Entity, Planning Coordinator, Reliability Coordinator or Balancing Authority may submit an Exception Request as provided in this Exception Procedure.

1.2 Authority

This Appendix is a NERC Rule of Procedure and an Electric Reliability Organization Rule. As such, this Appendix has been approved by (i) the NERC Board of Trustees and (ii) FERC or other Applicable Governmental Entity in Canada or Mexico. Any future revisions to this Appendix must be adopted in accordance with Article XI, section 2 of the NERC *Bylaws* and Section 1400 of the NERC *Rules of Procedure*, including approval by the NERC Board of Trustees and by FERC in order to become effective.

¹ *Order 743; Order 743-A.*

Applicable Governmental Entities in Canada or Mexico may adopt this Exception Procedure in its entirety or in part with its own deviation², ensuring there will be no adverse impact on the interconnected transmission system. Cross-border Regional Entities shall implement this Exception Procedure in a manner consistent with their memoranda of understanding with applicable entities and Applicable Governmental Authorities concerning compliance monitoring and enforcement activities in particular states and provinces.

1.3 Obligations of Canadian and Mexican Entities and Cross-Border Regional Entities

A Registered Entity that is a Canadian Entity or a Mexican Entity seeking an Exception shall work with the Regional Entity, NERC, and Applicable Governmental Authorities in Canada or Mexico, as appropriate, to the extent permitted under applicable federal, state or provincial laws, and without being obligated to authorize the disclosure of information prohibited by applicable federal, state or provincial law from disclosure to FERC or other Applicable Governmental Authorities in the U.S., to comply with the requirements of this Procedure or similar procedure adopted as per section 1.2. A Canadian Entity or a Mexican Entity shall not be required to subject itself to United States federal or state laws not otherwise applicable to the entity in order to utilize this Procedure to obtain an Exception.

2.0. DEFINITIONS

For purposes of this Appendix, the following terms shall be defined as set forth in this Section 2.0. Capitalized terms used in this Appendix that are not defined in this Section 2.0 shall have the meanings as defined in, as applicable, (i) the NERC *Glossary of Terms Used in Reliability Standards*, or (ii) Section 1.0 of the NERC *Uniform Compliance Monitoring and Enforcement Program*, Appendix 4C to the NERC *Rules of Procedure*, or (iii) Section 1501 of the NERC *Rules of Procedure*.

2.1 Acceptance of Exception Request: The determination by a Regional Entity that an Exception Request contains all the Required Information in order to be reviewed for substance.

² Canadian jurisdictions and relevant governmental authority should adopt the same or similar technical principles as exception criteria and follow the NERC process or any other process agreed with the NERC and/or applicable Cross-Border RE. If and when there are any deviation(s) from the these principles or process, the application must:

- (a) describe the deviations from the technical principles and process along with justifications, and
- (b) demonstrate and confirm that any of the following element or path are not excluded as part of the exception process, which
 - i. transfer bulk power within (intra) or between (inter) two Balancing Authority Areas; and
 - ii. are monitored facilities included in an Interconnection Reliability Operating Limit (IROL)
 - iii. excluded element(s) are not necessary for the operation of transmission system.

2.2 Approval of Exception Request: The determination by NERC that an Exception Request meets the criteria to receive an Exception.

2.3 BES: The Bulk Electric System.

2.4 BES DEFINITION: The NERC definition of the Bulk Electric System.

2.5 Canadian Entity: A Registered Entity that is organized under Canadian federal or provincial law.

2.6 Classified National Security Information: Required Information that has been determined to be protected from unauthorized disclosure pursuant to Executive Order No. 12958, as amended, and/or the regulations of the NRC at 10 C.F.R. §95.35; or pursuant to any comparable provision of Canadian federal or provincial law.

2.7 Disapproval of Exception Request: The determination by NERC that an Exception Request does not meet the criteria to receive an Exception.

2.8 Eligible Reviewer: A person who has the required security clearances or other qualifications, or who otherwise meets the applicable criteria, to have access to Confidential Information, Classified National Security Information, NRC Safeguards Information or Protected FOIA Information, as applicable to the particular information to be reviewed.

2.9 Exception: A determination that (i) an Element that falls within the BES Definition should be excluded from the BES, or (ii) an Element that falls outside the BES Definition should be included in the BES, in either case based on application of the technical criteria in this Appendix.

2.10 Exception Procedure: The procedure set forth in this Appendix.

2.11 Exception Request: A request made by a Submitting Entity in accordance with this Appendix for an Exception.

2.12 Exception Request Form: The template approved by NERC for use in submitting an Exception Request.

2.13 FERC: The United States Federal Energy Regulatory Commission.

2.14 FOIA: The U.S. Freedom of Information Act, 5 U.S.C. §552.

2.15 Lead Submitting Entity: The entity that submits Exception Request information that is common to a group of Submitting Entities that are submitting Exception Requests jointly.

2.16 NRC: The United States Nuclear Regulatory Commission.

2.17 NRC Safeguards Information: Required Information that is subject to restrictions on disclosure pursuant to 42 U.S.C. §2167 and the regulations of the NRC at 10 C.F.R. §73.21-73.23; or pursuant to comparable provisions of Canadian federal or provincial law.

2.18 Owner: The Owner(s) of an Element or Elements that is or may be determined to be part of the BES as a result of either the application of the BES Definition or an Exception, or another entity such as an operator authorized to act on behalf of the Owner in the context of an Exception Request.

2.19 Part A Required Information: Required Information that is to be provided in Part A of a Submitting Entity's Exception Request.

2.20 Part B Required Information: Required Information that is to be provided in Part B of a Submitting Entity's Exception Request.

2.21 Protected FOIA Information: Required Information, held by a governmental entity, that is subject to an exemption from disclosure under FOIA (5 U.S.C. §552(e)), under any similar state or local statutory provision, or under any comparable provision of Canadian federal or provincial law, which would be lost were the Required Information to be placed into the public domain.

2.22 Recommendation: Regional Entity's report to NERC containing the Regional Entity's evaluation concerning whether or to what extent an Exception Request should be approved.

2.23 Registered Entity: An entity that is registered for a reliability function in the NERC Compliance Registry.

2.24 Rejection of Exception Request: The determination by the Regional Entity that an Exception Request does not contain all the Required Information in order to be reviewed for substance.

2.25 Required Information: Information required to be provided in an Exception Request, as specified in Section 4.0 of this Appendix.

2.26 Submitting Entity: The entity that submits an Exception Request Form.

3.0. BASIS FOR APPROVAL OF AN EXCEPTION

3.1. Grounds for an Exception

An entity may request and obtain approval for an Exception on the grounds that application of the terms of the BES Definition, evaluated in the context or environment of the Element or Elements for which the Exception Request is filed: *[This draft presumes there will be a separate **Technical Principles for Demonstrating BES Exceptions** document, which is currently being drafted and posted for comment separately by the BES SDT; if not, the detailed criteria could be included here. In any case the details would be stated again on the form(s) to be completed by the Submitting Entity.]*

- (i) would exclude from the BES an Element(s) that . . . ; or
- (ii) would include within the BES an Element(s) that . . . ; or
- (iii) would be inconclusive regarding whether the subject Element or Elements are part of the BES.

3.2. Burden

The burden to provide a sufficient basis for approval of an Exception Request in accordance with the provisions of this Appendix is on the entity submitting the Exception Request (“the Submitting Entity”). It is the responsibility of the Regional Entity, subject to oversight by NERC as provided in this Appendix, to make an initial recommendation as to whether an Exception Request has met the criteria for approval.

4.0. FORM, CONTENTS AND SUBMISSION OF AN EXCEPTION REQUEST

4.1. Separate Submissions for Each Exception Request

A separate Exception Request shall be submitted for each Element or connected Elements for which the Submitting Entity seeks an Exception. Where the entity seeks Exception from the BES Definition for multiple, similar Elements (either at the same location or at different locations within the geographic boundaries of a Regional Entity) on the same basis, the Exception Requests for all such Elements may be included in one submission with all such Elements separately identified. A single Exception Request may not be submitted for Elements within the geographic boundaries of more than one Regional Entity.

Multiple entities may jointly file Exception Requests for similarly situated Elements for which they are requesting Exceptions on the same basis under Section 3.1. In such a situation, the entities will submit a package comprised of a complete Exception Request Form for one entity (the “Lead Entity”), and an Exception Request Form for each other entity that (1) provides the entity’s differing individual information to the extent such is required (e.g., contact information, identification and location of Element(s), etc.), and (2) otherwise references the pertinent portions of the complete Exception Request Form filed by the Lead Entity (e.g., status under application of the terms of the BES, basis for an Exception under Section 3.1, etc.). For any Exception Request filed by multiple entities as provided in this Section, the Lead Entity shall be considered the “Submitting Entity” for purposes of the Regional Entity’s and NERC’s notices and actions in accordance with the remainder of this Appendix. However, any Owner nonetheless may take any action otherwise appropriate for a Submitting Entity (e.g., respond to a Recommendation, submit an appeal, etc.).

A Regional Entity, Planning Coordinator, Reliability Coordinator or Balancing Authority may submit an Exception Request with respect to an Element or Elements owned by another Registered Entity (the “Owner”), provided that before doing so, (i) the entity confers with the Owner about the reasons for an Exception, and (ii) the Owner disagreed with submitting such an

Exception Request. If a Regional Entity seeks an Exception, the Regional Entity shall submit its Exception Request to NERC, in which case, NERC will perform the duties and responsibilities of the “Regional Entity” specified in this Appendix.

4.2. Form and Format of Exception Request

An Exception Request shall consist of two parts, each of which must be submitted to the applicable Regional Entity, with a copy to the Owner if different than the Submitting Entity (or if the Owner is unknown, to the operator of the Element(s) to which the Exception Request applies), in a secure electronic form using the Exception Request Form:

(i) Part A of the Exception Request is the identification of the Element(s) for which a Submitting Entity is requesting an Exception and of its status under the application of the terms of the BES Definition. Part A Required Information must be submitted as part of the Exception Request Form.

(ii) Part B of the Exception Request contains the detailed material to support an Exception Request and includes the documents, drawings, and other information necessary to provide the details and justification for the requested Exception. In accordance with the [*Technical Principles for Demonstrating BES Exceptions document*], certain Part B Required Information must be submitted with the Exception Request Form, and additional Part B Required Information must be available at a location for review by the Regional Entity beginning on the date the Exception Request is submitted.

(iii) A Regional Entity may also require a Submitting Entity to submit all or a portion of the additional Part B Required Information to the Regional Entity, provided that (A) the information can be filed in a secure manner that does not compromise the confidentiality of any Confidential Information, Classified National Security Information, NRC Safeguards Information and/or Protected FOIA Information, and (B) the Submitting Entity shall not be required to file with a Regional Entity any Part B Required Information if the Submitting Entity is not assured of such security, or to the extent that such filing is prohibited by law; provided that the information shall still be available at a location for review as provided in Section 4.2(ii). The Regional Entity is under no obligation to issue a Recommendation regarding an Exception Request without documentation sufficient to grant such an approval.

4.3. Required Information to be Included in the Exception Request

4.3.1. Part A of an Exception Request shall contain the Part A Required Information specified in this Section 4.3.1 and shall be submitted to the Regional Entity using the Exception Request Form. Consistent with the summary nature of the Part A Required Information, the Exception Request Form provides checklists of responses to be selected by the Submitting Entity and/or limited space for narrative descriptions for the Part A Required Information listed below. Failure to provide all Part A Required Information will result in rejection of the Exception

Request as incomplete. The Part A Required Information shall consist of the following information:

1. Name of entity submitting the Exception Request (“Submitting Entity”).
2. Submitting Entity NERC Compliance Registry ID (if yet assigned).
3. Name of the Owner, if different than the Submitting Entity, and certification by the Submitting Entity that it conferred with the Owner regarding the reason for the requested Exception, but that the Owner disagreed with submitting such an Exception Request.
4. Owner’s NERC Compliance Registry ID (if yet assigned).
5. Exception Request submittal date.
6. Whether the Exception Request is an original Exception Request or an amended Exception Request; and if it is an amended Exception Request, the identification number of the original Exception Request.
7. Name, mailing address, phone number, facsimile number, and E-mail address of the Submitting Entity’s technical contact person for the Exception Request.
8. To the extent known by the Submitting Entity, name, mailing address, phone number, facsimile number, and E-mail address of the Owner’s technical contact person for the Exception Request, if the Owner is different from the Submitting Entity.
9. Status under the BES Definition of the Element(s) for which the Exception is being requested. *[On the form, this would be a checklist of the various parts of the BES Definition, with perhaps some space for specific, relevant details. “Unable to determine status” would be one option.]*
10. The type(s) of Element(s) for which the Exception is being requested.
11. Identification and location(s) of Element(s) for which the Exception is being requested.
12. Whether the Submitting Entity is filing a similar Exception Request(s) with one or more other Regional Entities, and if yes, the name(s) of the other Regional Entity(ies).

4.3.2 Part B of an Exception Request shall contain the Part B Required Information specified in this Section 4.3.2. Failure to include all Part B Required Information may result in rejection of the Exception Request. The information provided should be comprehensive, as

opposed to the summary information provided on Part A, and should include any supporting documents, as required by the *[technical criteria document]*.

1. A statement of the basis, consistent with Section 3.1 of this Appendix, on which the Submitting Entity contends the Exception Request should be approved, with supporting documentation for such basis as required by the *[technical criteria document]*, or an explanation of the reason for the inability to determine the subject Element's or Elements' status by application of the terms of the BES Definition.
2. If the Exception Request is supported, in whole or in part, by Classified National Security Information, NRC Safeguards Information, and/or Protected FOIA Information, a statement identifying which of these categories each such item of information falls into and explaining why each such item of information is Classified National Security Information, NRC Safeguards Information, and/or Protected FOIA Information.
3. If the Submitting Entity is prohibited by law from disclosing any Classified National Security Information, NRC Safeguards Information and/or Protected FOIA Information to any person who is not an Eligible Reviewer (such as, for example, the restriction on access to Classified National Security Information specified in Section 4.1 of Executive Order No. 12958, as amended), the Exception Request shall identify the Classified National Security Information, NRC Safeguards Information and/or Protected FOIA Information that is subject to such restrictions on disclosure and shall identify the criteria which a person must meet in order to be an Eligible Reviewer of the Classified National Security Information, NRC Safeguards Information and/or Protected FOIA Information.
4. A statement, signed and dated by a responsible, authorized representative of the Submitting Entity's senior management stating that the representative has read the Exception Request on behalf of the Submitting Entity and that the Submitting Entity believes approval of the Exception Request is warranted pursuant to the criteria in Section 3.1 of this Appendix.

4.3.3 The Owner of the Element(s) to which the Exception Request applies, if different than the Submitting Entity, may file a response to supplement, correct, or disagree with all or any part of an Exception Request Form within forty-five (45) days after receiving a copy of the Exception Request Form.

4.4 Access to Confidential Information, Classified National Security Information, NRC Safeguards Information, and Protected FOIA Information Included in Required Information

4.4.1. Upon reasonable advance notice from a Regional Entity, and subject to Section 4.4.2, a Submitting Entity or Owner must provide the Regional Entity (i) with access to Confidential Information, Classified National Security Information, NRC Safeguards

Information, and Protected FOIA Information included in the Part B Required Information, and (ii) with access for purposes of making a physical review and inspection to the Element or Elements for which an Exception Request has been submitted.

4.4.2. If the Submitting Entity or Owner is prohibited by law from disclosing any Confidential Information, Classified National Security Information, NRC Safeguards Information or Protected FOIA Information to any person who is not an Eligible Reviewer (such as, for example, the restriction on access to Classified National Security Information specified in Section 4.1 of Executive Order No. 12958, as amended), then such Confidential Information, Classified National Security Information, NRC Safeguards Information or Protected FOIA Information shall only be reviewed by a representative or representatives of the Regional Entity (which may include contractors) who are Eligible Reviewers.

4.4.3. The Regional Entity, as applicable, will work cooperatively with the Submitting Entity or Owner to access Protected FOIA Information in a way that does not waive or extinguish the exemption of the Protected FOIA Information from disclosure.

5.0 REVIEW, ACCEPTANCE OR REJECTION, AND RECOMMENDATION REGARDING EXCEPTION REQUESTS

5.1. Initial Screening of Exception Request for Acceptance or Rejection

5.1.1. Upon receipt of an Exception Request, the Regional Entity (i) will assign a unique identifier to the Exception Request, and (ii) will review the Exception Request to determine that the Exception Request is for an exception from the application of the terms of the BES Definition and that all Required Information has been provided, as required by the *[Technical Criteria Document]*. If the Exception Request indicates that the Submitting Entity has submitted a similar Exception Request to one or more other Regional Entities, the Regional Entities shall coordinate their actions undertaken pursuant to this Section 5.0.

5.1.2. The unique identifier assigned to the Exception Request will be in the form of XXXX-YYYY-NERCID-ExceptionZZZZZ, where “XXXX” is the year in which the Exception Request is received by the Regional Entity (e.g., “2011”); “YYYY” is the acronym for the Regional Entity within whose geographic boundaries the relevant Element or Elements are located³; NERCID is the Submitting Entity’s NERC Compliance Registry ID (or an abbreviation of its name if an ID is not yet assigned); and “ZZZZZ” is the sequential number of the Exception Requests received by the Regional Entity in that year. If the Exception Request is amended or resubmitted, “-AZ” will be added to the end of the identifier, where “Z” is the number of the amendment to the Exception Request.

³ The acronyms to be used are: FRCC (Florida Reliability Coordinating Council); MRO (Midwest Reliability Organization); NPCC (Northeast Power Coordinating Council); RFC (ReliabilityFirst Corporation); SERC (SERC Reliability Corporation); SPP (Southwest Power Pool Regional Entity); TRE (Texas Regional Entity/Texas Reliability Entity); and WECC (Western Electricity Coordinating Council), and NERC in cases where the Exception Request is submitted to NERC.

5.1.3. (a) The Regional Entity will typically complete its initial screening of the Exception Request Form and any responsive document filed by an Owner no later than either sixty (60) calendar days after receiving the Exception Request or thirty (30) calendar days after receiving any responsive document from the Owner, whichever is later.

(b) If the Regional Entity determines at any time that for a specified period of time, the Regional Entity will be unable to complete initial screenings of Exception Requests within the time provided by Section 5.1.3(a) after receipt and substantive reviews of Exception Requests within six months after receipt, the Regional Entity, based on consultation with NERC, shall establish an alternative time period objective and work plan for completing initial screenings and substantive reviews of Exception Requests during the specified period of time. The alternative time period objective and work plan shall be publicized by posting on the Regional Entity's Website.

5.1.4. If, based on its initial screening, the Regional Entity determines the Exception Request is for an Exception from the application of the terms of the BES Definition (or for a determination of undeterminable status), that all Part A Required Information has been provided, and that the Part B Required Information provides the types and scope of information required to be submitted in accordance with Section 4.2(ii) of this Appendix, the Regional Entity shall accept the Exception Request as complete and send a notice of such Acceptance to the Submitting Entity, with a copy to the Owner, if different than the Submitting Entity, and to NERC.

5.1.5. (a) If the Regional Entity determines, (A) based on its review of the Part A Required Information provided by the Submitting Entity, that the Exception Request (i) is not for an Exception from the application of the terms of the BES Definition (or for a determination of otherwise undeterminable status), and/or (ii) does not contain all Part A Required Information, and/or (B) based on its review of the Part B Required Information provided by the Submitting Entity that the Exception Request does not provide the types and scope of information required in accordance with Section 4.2(ii) of this Appendix, the Regional Entity shall reject the Exception Request as incomplete and send a notice of such Rejection to the Submitting Entity, with a copy to the Owner, if different than the Submitting Entity, and to NERC. To the extent feasible, if an Exception Request Form is missing Part A or Part B information that the Regional Entity believes may be readily available to the Submitting Entity, the Regional Entity shall not reject the Exception Request until (1) it has contacted the Submitting Entity to request that the Exception Request Form be supplemented with such information, and (2) the Submitting Entity has failed to submit such information within a reasonable period of time.

(b) If the Regional Entity rejects the Exception Request in accordance with Section 5.1.5(a), the Regional Entity's notice shall explain the reason for the Rejection and identify any Part A Required Information or Part B Required Information that was not provided in the Exception Request Form. The

Submitting Entity may (i) at any time after a Rejection, submit an amended Exception Request to the Regional Entity correcting any deficiencies, or (ii) within thirty days after receipt of the Rejection, ask NERC to direct Reconsideration of the Exception Request in accordance with Section 8.0 of this Appendix.

5.1.6. The Regional Entity may either accept the Exception Request in its entirety, reject the Exception Request in its entirety, or if the Exception Request is for more than one Element, may accept it with respect to a subset of the Elements and reject it with respect to the remainder.

5.2 Substantive Review of Exception Request for Approval or Disapproval

5.2.1 After Acceptance of an Exception Request, the Regional Entity shall conduct a substantive review to evaluate whether or to what extent the Exception Request meets the criteria for an Exception specified in Section 3.1 of this Appendix. As part of its substantive review, depending on the circumstances of the Exception Request, the Regional Entity may request access to and review the Part B Required Information, including any Confidential Information, Classified National Security Information, NRC Safeguards Information, and Protected FOIA Information that is necessary to support the Exception Request; may conduct one or more physical inspections of the relevant Element(s) and their context; may request additional information from the Submitting Entity or Owner; and may engage in further discussions concerning possible revisions to the Exception Request.

5.2.2. The Regional Entity shall complete its substantive review of the Exception Request and issue a notice (in accordance with Sections 5.2.4 or 5.2.5) stating its Recommendation that the Exception Request be approved or disapproved, within six months after acceptance of the Exception Request or within an alternative time period as specified in a work plan established under Section 5.1.3(b). In addition, the Regional Entity may extend the period for individual Exception Requests by issuing a notice to the Submitting Entity, with a copy to the Owner if different than the Submitting Entity and to NERC, stating the revised date by which the Regional Entity will issue its Recommendation concerning the Exception Request.

5.2.3. The Regional Entity shall issue a Recommendation to NERC, with a copy to the Submitting Entity and to the Owner if different than the Submitting Entity, including its evaluation of whether and to what extent the Exception Request meets the criteria to be approved in its entirety or be disapproved in its entirety, or if the Exception Request is for more than one Element, to be approved with respect to a subset of the Elements and disapproved with respect to the remainder. The Recommendation shall set forth the basis on which the Regional Entity arrived at its Recommendation. With the Recommendation, the Regional Entity will also send NERC copies of the Exception Request Form and other information supplied by the Submitting Entity and Owner if different than the Submitting Entity.

6.0 SUPPLEMENTATION OF AN EXCEPTION REQUEST PRIOR TO A RECOMMENDATION

A Submitting Entity or Owner at any time prior to the Regional Entity issuing its Recommendation may supplement a pending Exception Request that is under review by a Regional Entity, either at the request of the Regional Entity or at the Submitting Entity's own decision, for the purpose of providing additional or revised Required Information. The Submitting Entity or Owner shall submit a written explanation of what Required Information is being added or revised and the purpose of the supplementation. Supplementing a pending Exception Request may, in the Regional Entity's discretion, extend the time period for the Regional Entity's initial screening or substantive review, as applicable, of the Exception Request.

7.0 RECONSIDERATION OF REJECTION OF AN EXCEPTION REQUEST APPLICATION BASED ON ITS COMPLETENESS

A Submitting Entity, or Owner if different than the Submitting Entity, may submit to NERC, with a copy to the Regional Entity, information that the entity believes demonstrates that the insufficiencies in an Exception Request Form identified in the notice of Rejection by a Regional Entity pursuant to Section 5.1.5 are incorrect and that the Exception Request should be considered on its merits by a substantive review. An entity's submission to NERC under this Section 7.0 shall be in writing and shall (i) provide the Exception Request which received the rejection (using the identifier assigned to the Exception Request pursuant to Section 5.1.2), (ii) provide a copy of the Regional Entity's notice of Rejection of the Exception Request, and (iii) set forth a description of the errors that the entity believes are in the notice. The entity's submission must provide a clear and compelling demonstration (1) that the Exception Request is for an Exception as provided by Section 3.1 and (2) that all Part A Required Information and Part B Required Information for such an Exception has been provided. Within forty-five (45) calendar days after receiving the submission, NERC will review the entity's submission and the reports submitted by the Regional Entity or Regional Entities pursuant to Section 5.1.5 with respect to the Exception Request, and if NERC determines that the Exception Request is for an Exception pursuant to Section 3.1 (or for a determination of undeterminable status), that all Part A Required Information has been provided, and that the Part B Required Information provides the types and scope of information required to be submitted in accordance with Section 4.2(ii) of this Appendix, NERC shall direct the Regional Entity to reconsider its rejection and to proceed to a substantive review of the Exception Request in accordance with Section 5.2. NERC will send a written notice to the entity stating either that NERC has determined to direct reconsideration by the Regional Entity or that NERC has determined not to direct reconsideration by the Regional Entity, as applicable.

8.0 APPROVAL OR DISAPPROVAL OF AN EXCEPTION REQUEST

Following the submission of a Recommendation to NERC, a Submitting Entity or Owner will have thirty (30) calendar days to submit a comment in support of or opposition to the Recommendation. For no more than ninety days after receiving the Recommendation or seventy five days after receiving a comment on the Recommendation, whichever is longer, a team of

three NERC Reliability Assessment and Performance Analysis personnel shall review the Exception Request Form and supporting materials, the Recommendation and any comments, and may choose to ask the Regional Entity, Submitting Entity, and Owner, if different than the Submitting Entity, to appear at NERC for interviews or discussion regarding any questions. By the end of such period, the team shall issue a decision on behalf of NERC either to Approve or to Disapprove the Exception Request. If the Exception Request concerns more than one Element, NERC may Approve the Exception Request in its entirety, Disapprove the Exception Request in its entirety, or Approve some portion of the Exception Request and Disapprove the remaining portion. The decision shall be in writing and identify the basis for the decision. If the decision of the team was not unanimous, the writing shall note that fact and include the basis on which the minority disagreed.

Documentation used to substantiate the conclusions of NERC related to an Exception Request shall be retained by the NERC for six (6) years, unless a different retention period is otherwise identified, for the purposes of future audits of this procedure.

9.0 APPEAL OF APPROVAL OR DISAPPROVAL OF AN EXCEPTION REQUEST

9.1 A Submitting Entity or Owner aggrieved by NERC's approval or disapproval of an Exception Request may, within twenty-one (21) calendar days following receipt of NERC's decision, file an appeal with the NERC Board of Trustees by sending a letter to NERC's General Counsel stating the desire to do so, with copies to the other parties to the Exception Request process. The appeal shall state the basis of the objection to NERC's decision.

9.2 NERC, the Regional Entity(ies), the Submitting Entity, and the Owner are encouraged to resolve any disagreements informally, and the entities involved may make use of alternative dispute resolution procedures at any time during the course of the matter, and in connection therewith to agree to toll the time period for consideration of the appeal.

9.3 A panel appointed by the NERC Board of Trustees for that purpose shall decide the appeal within ninety (90) days. The panel shall consist of at least three appointees, one of whom must be a member of the NERC staff, who are knowledgeable about the types of Elements for which the Exception Request was made and do not have a direct financial or business interest in the outcome of the appeal. The panel may request additional information from the Regional Entity(ies), the Submitting Entity, and the Owner.

9.4 The panel will provide a written decision regarding the appeal, including a basis for its decision, and NERC shall notify the Regional Entity(ies), the Submitting Entity, and the Owner, that the appeal was granted or denied and shall provide a copy of the written decision of the panel.

9.5 The Submitting Entity and/or the Owner, if aggrieved by the decision of the panel may request that the NERC Board of Trustees Compliance Committee review the decision by filing its request for review and a statement of reasons with NERC's Chief Reliability Officer within 14 days of the panel decision. Within forty-five (45) days after receiving the request for review, the Board of Trustees Compliance Committee will provide a written decision regarding

the appeal, including a basis for its decision; provided that 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.

9.6 A record of the appeals process shall be maintained by NERC.

9.7 A Submitting Entity or Owner aggrieved by the decision of the Board of Trustees Compliance Committee may appeal to FERC or the Applicable Canadian Governmental Authority within 21 days after notification of the final appellate decision.

10.0 TERMINATION OF AN APPROVED EXCEPTION

10.1 An Exception typically will be granted without a specified date of termination, but will be subject to periodic review to verify continuing justification for the Exception.

10.2 Registered Entities shall notify the appropriate Regional Entity within ninety days of any change of condition which would affect the Part A or Part B Required Information regarding an Element(s) to which an Exception applies.

10.3 Registered Entities shall self-certify⁴ periodically to the appropriate Regional Entity that the basis for Elements being included or excluded through the Exception remain valid and shall provide the Regional Entity with any changes to Part A Required Information. Such self-certification shall be due on the first day of the first quarter twenty-four (24) months after the date on which the Exception was approved, and every twenty-four months (24) thereafter, so long as the Exception remains in effect. If such certification is not provided, the Exception will terminate ninety (90) days after such certification was due.

10.4 NERC and FERC shall be notified of necessary changes to the BES list consistent with the notification provisions described in this section.

⁴ Self-certification shall consider the effect on the basis for the Exception resulting from system changes such as load growth and topological changes, as well as the effect on system limits and impacts as a result of the contingencies listed in Table 1 of the NERC TPL standards.