

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

|                                     |   |                    |                   |
|-------------------------------------|---|--------------------|-------------------|
| <b>DIRECT ENERGY SERVICES, LLC</b>  | ) | <b>Docket Nos.</b> | <b>RC07-4-00_</b> |
| <b>SEMPRA ENERGY SOLUTIONS, LLC</b> | ) |                    | <b>RC07-6-00_</b> |
| <b>STRATEGIC ENERGY, L.L.C.</b>     | ) |                    | <b>RC07-7-00_</b> |

**COMPLIANCE FILING OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
IN RESPONSE TO DECEMBER 20, 2007 ORDER**

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July 31, 2008

## I. INTRODUCTION

The North American Electric Reliability Corporation (“NERC”) hereby submits its compliance filing in response to the Commission’s December 20, 2007 Order<sup>1</sup> and April 4, 2008 Order.<sup>2</sup> In its March 4, 2008 Compliance Filing, NERC provided the detailed background regarding the appeals of Direct Energy Services, LLC (“Direct Energy”), Sempra Energy Solutions, LLC (“Sempra”) and Strategic Energy, L.L.C (“Strategic”) to be included on the NERC Compliance Registry for the function of Load-Serving Entity (“LSE”) in the ReliabilityFirst Corporation (“RFC”) Region.<sup>3</sup> NERC also submitted its short-term<sup>4</sup> and longer-term<sup>5</sup> plans to address the reliability gap that would result if there is no LSE registered on behalf of end-use customer load served by retail power marketers.

In its April 4 Order, the Commission accepted NERC’s two-part plan.

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<sup>1</sup>*Direct Energy Services, LLC, et al.*, 121 FERC ¶ 61,274 (2007) (“December 20 Order”). Paragraphs 2-14 of the December 20 Order set forth relevant procedural history leading up to its issuance.

<sup>2</sup>*Direct Energy Services, LLC, et al.*, 123 FERC ¶ 61,016 (2008) (“April 4 Order”).

<sup>3</sup>*Compliance Filing of the North American Electric Reliability Corporation in Response to December 20, 2007 Order*, Docket Nos. RC07-4-000, RC07-6-000 and RC07-7-000. (March 4, 2008).

<sup>4</sup> Under NERC’s short-term plan, NERC stated that “Using a posting and open comment process, NERC will revise the registration criteria to define “Non-Asset Owning LSEs” as a subset of Load Serving Entities and will specify the reliability standards applicable to that subset. The NERC Board of Trustees will then consider the revisions at its May [7] 2008 meeting.” *Compliance Filing of the North American Electric Reliability Corporation in Response to December 20, 2007 Order*, Docket Nos. RC07-4-002, RC07-6-002 and RC07-7-002 (filed March 4, 2008) at 3.

<sup>5</sup> Under NERC’s longer-term plan, NERC stated that “NERC will determine the changes necessary to terms and requirements in reliability standards to address the issues surrounding accountability for loads served by retail marketers/suppliers and process them through execution of the three-year *Reliability Standards Development Plan*.” *Id.* at 4.

## **II. NOTICES AND COMMUNICATIONS**

Notices and communications with respect to this filing may be addressed to:

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official service list.

## **III. RESPONSE TO COMMISSION DIRECTIVES**

Pursuant to its short-term plan, on March 12, 2008, NERC posted for public comment draft Version 5.0 of the NERC *Statement of Compliance Registry Criteria* in which NERC created a new category defined as “Non-Asset Owning LSEs” as a subset of Load Serving Entities, which would apply to retail power marketers serving end-use customer load. NERC also specified the reliability standards applicable to that subset.

NERC received comments from interested stakeholders by the April 10 deadline and held an LSE and Compliance Workshop in Houston, Texas on April 15, 2008. The comments received and the input by all interested parties at the workshop, caused NERC to rethink how it is approaching the short-term aspect of the plan. As a result, NERC determined not to take action on the March 12 proposed version of the NERC *Statement of Compliance Registry Criteria*. On May 14, 2008, NERC submitted a status report to the Commission regarding its efforts to date and indicated it would be posting a second proposed revision to the NERC *Statement of Compliance Registry Criteria*. In the new proposed revision, NERC proposed to require the

Distribution Provider to whose system the electric loads in retail choice areas are connected to be registered as the LSE for all loads connected to its system for the purpose of compliance with NERC's approved reliability standards applicable to LSEs. In the event some other entity, including a load aggregator, is responsible for compliance with NERC's approved standards, the provisions of joint registration or transfer by agreement currently contained in the registration criteria may be utilized. This approach ensures that all loads are represented in the planning and operation of the bulk power system by the entity with the best information regarding those loads.

NERC has considered the comments received from the second posting. While there is not universal industry support for either of the proposed changes, NERC continues to believe this is the appropriate short term solution to ensure there are no gaps in reliability responsibility for the approved NERC reliability standards.

With respect to loads served by retail choice through load aggregators, NERC understands there may not be a clear agreement in place between the Distribution Providers and the load aggregators delineating the responsibilities between the parties relative to compliance with NERC Reliability Standards. With this revision to the *NERC Statement of Compliance Registry Criteria*, NERC will ask the Distribution Provider to provide the necessary information and take the actions necessary to comply with the reliability standards on a good-faith basis until either agreements can be reached or joint registration completed. NERC will exercise its discretion in the application of penalties or sanctions upon Distribution Providers who are providing this information on the behalf of loads served by a retail choice load aggregator until such time as both entities are either registered or the standards are updated to clarify the responsibilities for each party as ultimately identified in the longer-term solution proposed by NERC.

The NERC Board of Trustees approved the proposed revisions to the *Statement of Compliance Registry Criteria* at its July 30, 2008 meeting. NERC respectfully requests that the Commission approve the changes proposed in version 5 of the *Statement of Compliance Registry Criteria* until such time as a longer term solution is developed.

NERC will continue to evaluate the comments and input from the LSE and Compliance Workshop to develop its longer-term solution of revising the relevant reliability standards.

#### **IV. CONCLUSION**

North American Electric Reliability Corporation respectfully requests that the Commission accept this filing in compliance with the December 20 Order and April 4 Order in this proceeding and requests that the Commission act to approve the changes proposed in version 5.0 of the NERC *Statement of Compliance Registry Criteria*.

Respectfully submitted,

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**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 31st day of July, 2008.

*/s/ Rebecca J. Michael*

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Rebecca J. Michael

*Attorney for North American Electric  
Reliability Corporation*

**Attachment A**

**NERC Statement of Compliance Registry Criteria (Revision 5.0)  
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## Statement of Compliance Registry Criteria (Revision 5.0)

### Summary

Since becoming the Electric Reliability Organization (ERO), NERC has initiated a program to identify candidate organizations for its compliance registry. The program, conducted by NERC and the Regional Entities<sup>1</sup>, will also confirm the functions and information now on file for currently-registered organizations. NERC and the Regional Entities have the obligation to identify and register all entities that meet the criteria for inclusion in the compliance registry, as further explained in the balance of this document.

This document describes how NERC will identify organizations that may be candidates for registration and assign them to the compliance registry.

Organizations will be responsible to register and to comply with approved reliability standards to the extent that they are owners, operators, and users of the bulk power system, perform a function listed in the functional types identified in Section II of this document, and are material to the reliable operation of the interconnected bulk power system as defined by the criteria and notes set forth in this document. NERC will apply the following principles to the compliance registry:

- In order to carry out its responsibilities related to enforcement of Reliability Standards, NERC must identify the owners, operators, and users of the bulk power system who have a material impact<sup>2</sup> on the bulk power system through a compliance registry. NERC and the Regional Entities will make their best efforts to identify all owners, users and operators who have a material reliability impact on the bulk power system in order to develop a complete and current registry list. The registry will be updated as required and maintained on an on-going basis.
- Organizations listed in the compliance registry are responsible and will be monitored for compliance with applicable mandatory reliability standards. They will be subject to NERC's and the Regional Entities' compliance and enforcement programs.
- NERC and Regional Entities will not monitor nor hold those not in the registry responsible for compliance with the standards. An entity which is not initially placed on the registry, but which is identified subsequently as having a material reliability

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<sup>1</sup> The term "Regional Entities" includes Cross-Border Regional Entities.

<sup>2</sup> The criteria for determining whether an entity will be placed on the registry are set forth in the balance of this document. At any time a person may recommend in writing, with supporting reasons, to the director of compliance that an organization be added to or removed from the compliance registry, pursuant to NERC ROP 501.1.3.5.



- impact, will be added to the registry. Such entity will not be subject to a sanction or penalty by NERC or the Regional Entity for actions or inactions prior to being placed on the registry, but may be required to comply with a remedial action directive or mitigation plan in order to become compliant with applicable standards. After such entity has been placed on the compliance registry, it shall be responsible for complying with Reliability Standards and may be subject to sanctions or penalties as well as any remedial action directives and mitigation plans required by the Regional Entities or NERC for future violations, including any failure to follow a remedial action directive or mitigation plan to become compliant with Reliability Standards.
- Required compliance by a given organization with the standards will begin the later of (i) inclusion of that organization in the compliance registry and (ii) approval by the appropriate governmental authority of mandatory reliability standards applicable to the entity.

Entities responsible for funding NERC and the Regional Entities have been identified in the budget documents filed with FERC. Presence on or absence from the compliance registry has no bearing on an entity's independent responsibility for funding NERC and the Regional Entities.

## **Background**

In 2005, NERC and the Regional Entities conducted a voluntary organization registration program limited to balancing authorities, planning authorities, regional reliability organizations, reliability coordinators, transmission operators, and transmission planners. The list of the entities that were registered constitutes what NERC considered at that time as its compliance registry.

NERC has recently initiated a broader program to identify additional organizations potentially eligible to be included in the compliance registry and to confirm the information of organizations currently on file. NERC believes this is a prudent activity at this time because:

- As of July 20, 2006, NERC was certified as the ERO created for the U.S. by the Energy Policy Act of 2005 (EPAct) and FERC Order 672. NERC has also filed with Canadian authorities for similar recognition in their respective jurisdictions.
- FERC's Order 672 directs that owners, operators and users of the bulk power system shall be registered with the ERO and the appropriate Regional Entities.
- As the ERO, NERC has filed its current reliability standards with FERC and with Canadian authorities. As accepted and approved by FERC and appropriate Canadian authorities, the reliability standards are no longer voluntary, and organizations that do not fully comply with them may face penalties or other sanctions determined and levied by NERC or the Regional Entities.
- NERC's reliability standards include compliance requirements for additional reliability function types beyond the six types registered by earlier registration programs.

- Based on selection as the ERO, the extension and expansion of NERC’s current registration program<sup>3</sup> is the means by which NERC and the Regional Entities will plan, manage and execute reliability standard compliance oversight of owners, operators, and users of the bulk power system.
- Organizations listed in the compliance registry are subject to NERC’s and the Regional Entities’ compliance and enforcement programs.

### **Statement of Issue**

As the ERO, NERC intends to comprehensively and thoroughly protect the reliability of the grid. To support this goal NERC will include in its compliance registry each entity that NERC concludes can materially impact the reliability of the bulk power system. However, the potential costs and effort of ensuring that every organization potentially within the scope of “owner, operator, and user of the bulk power system” becomes registered while ignoring their impact upon reliability, would be disproportionate to the improvement in reliability that would reasonably be anticipated from doing so.

NERC wishes to identify as many organizations as possible that may need to be listed in its compliance registry. Identifying these organizations is necessary and prudent at this time for the purpose of determining resource needs, both at the NERC and Regional Entity level, and to begin the process of communication with these entities regarding their potential responsibilities and obligations. NERC and the Regional Entities believe that primary candidate entities can be identified at this time, while other entities can be identified later, as and when needed. Selection principles and criteria for the identification of these initial entities are required. This list will become the “Initial Non-binding Organization Registration List”. With FERC having made the approved Reliability Standards enforceable, this list becomes the NERC Compliance Registry.

### **Resolution**

NERC and the Regional Entities have identified two principles they believe are key to the entity selection process. These are:

1. There needs to be consistency between regions and across the continent with respect to which entities are registered, and;
2. Any entity reasonably deemed material to the reliability of the bulk power system will be registered, irrespective of other considerations.

To address the second principle the Regional Entities, working with NERC, will identify and register any entity they deem material to the reliability of the bulk power system.

In order to promote consistency, NERC and the Regional Entities intend to use the following criteria as the basis for determining whether particular entities should be identified as candidates for registration. All organizations meeting or exceeding the criteria will be identified as candidates.

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<sup>3</sup> See: NERC ERO Application; Exhibit C; Section 500 – Organization Registration and Certification.

The following four groups of criteria (Sections I-IV) plus the statements in Section V will provide guidance regarding an entity’s registration status:

- Section I determines if the entity is an owner, operator, or user of the bulk power system and, hence, a candidate for organization registration.
- Section II uses NERC’s current functional type definitions to provide an initial determination of the functional types for which the entities identified in Section I should be considered for registration.
- Section III lists the criteria regarding smaller entities; these criteria can be used to forego the registration of entities that were selected to be considered for registration pursuant to Sections I and II and, if circumstances change, for later removing entities from the registration list that no longer meet the relevant criteria.
- Section IV — additional criteria for joint registration. Joint registration criteria may be used by Joint Action Agencies, Generation and Transmission Cooperatives and other entities which agree upon a clear division of compliance responsibility for Reliability Standards by written agreement. Pursuant to FERC’s directive in paragraph 107 of Order No. 693, rules pertaining to joint registration and Joint Registration Organizations will now be found in Sections 501 and 507 of the NERC Rules of Procedure.

I. Entities that use, own or operate elements of the bulk electric system as established by NERC’s approved definition of bulk electric system below are (i) owners, operators, and users of the bulk power system and (ii) candidates for registration:

*“As defined by the Regional Reliability Organization, the electrical generation resources, transmission lines, interconnections with neighboring systems, and associated equipment, generally operated at voltages of 100 kV or higher. Radial transmission facilities serving only load with one transmission source are generally not included in this definition.<sup>4</sup>”*

II. Entities identified in Part I above will be categorized as registration candidates who may be subject to registration under one or more appropriate functional entity types based on a comparison of the functions the entity normally performs against the following function type definitions:

| <b>Function Type</b> | <b>Acronym</b> | <b>Definition/Discussion</b>  |
|----------------------|----------------|---|
| Balancing Authority  | BA             | The responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a BA area, and supports Interconnection |

<sup>4</sup> However, ownership of radial transmission facilities intended to be covered by the vegetation management standard (applicable to transmission lines 200 kV and above) would be included in this definition.

| <b>Function Type</b>      | <b>Acronym</b> | <b>Definition/Discussion</b>  |
|---------------------------|----------------|---|
|                           |                | frequency in real-time.   |
| Distribution Provider     | DP             | Provides and operates the “wires” between the transmission system and the end-use customer. For those end-use customers who are served at transmission voltages, the Transmission Owner also serves as the DP. Thus, the DP is not defined by a specific voltage, but rather as performing the Distribution function at any voltage.                |
| Generator Operator        | GOP            | The entity that operates generating unit(s) and performs the functions of supplying energy and interconnected operations services.  |
| Generator Owner           | GO             | Entity that owns and maintains generating units.  |
| Interchange Authority     | IA             | The responsible entity that authorizes implementation of valid and balanced Interchange Schedules between Balancing Authority Areas, and ensures communication of Interchange information for reliability assessment purposes.  |
| Load-Serving Entity       | LSE            | Secures energy and transmission service (and related interconnected operations services) to serve the electrical demand and energy requirements of its end-use customers.   |
| Planning Authority        | PA             | The responsible entity that coordinates and integrates transmission facility and service plans, resource plans, and protection systems.   |
| Purchasing-Selling Entity | PSE            | The entity that purchases or sells and takes title to energy, capacity, and interconnected operations services. PSE may be affiliated or unaffiliated merchants and may or may not own generating facilities.   |
| Reliability Coordinator   | RC             | The entity that is the highest level of authority who is responsible for the reliable operation of the bulk power system, has the wide area view of the bulk power system, and has the operating tools, processes and procedures, including the authority to prevent or mitigate emergency operating situations in both next-day analysis and real- |

| <b>Function Type</b>          | <b>Acronym</b> | <b>Definition/Discussion</b>  |
|-------------------------------|----------------|---|
|                               |                | time operations. The RC has the purview that is broad enough to enable the calculation of interconnection reliability operating limits, which may be based on the operating parameters of transmission systems beyond any Transmission Operator's vision.   |
| Reserve Sharing Group         | RSG            | A group whose members consist of two or more Balancing Authorities that collectively maintain, allocate, and supply operating reserves required for each BA's use in recovering from contingencies within the group. Scheduling energy from an adjacent BA to aid recovery need not constitute reserve sharing provided the transaction is ramped in over a period the supplying party could reasonably be expected to load generation in (e.g., ten minutes). If the transaction is ramped in quicker, (e.g., between zero and ten minutes) then, for the purposes of disturbance control performance, the areas become a RSG. |
| Resource Planner              | RP             | The entity that develops a long-term (generally one year and beyond) plan for the resource adequacy of specific loads (customer demand and energy requirements) within a PA area.   |
| Transmission Owner            | TO             | The entity that owns and maintains transmission facilities.   |
| Transmission Operator         | TOP            | The entity responsible for the reliability of its local transmission system and operates or directs the operations of the transmission facilities.  |
| Transmission Planner          | TP             | The entity that develops a long-term (generally one year and beyond) plan for the reliability (adequacy) of the interconnected bulk electric transmission systems within its portion of the PA area.  |
| Transmission Service Provider | TSP            | The entity that administers the transmission tariff and provides transmission service to transmission customers under applicable transmission service agreements.   |

III. Entities identified in Part II above as being subject to registration as an LSE, DP, GO, GOP, TO, or TOP should be excluded from the registration list for these functions if they do not meet any of the criteria listed below:

III (a) Load-serving Entity:

- III.a.1 Load-serving entity peak load is > 25 MW and is directly connected to the bulk power (>100 kV) system, or;
- III.a.2 Load-serving entity is designated as the responsible entity for facilities that are part of a required underfrequency load shedding (UFLS) program designed, installed, and operated for the protection of the bulk power system, or;
- III.a.3 Load-serving entity is designated as the responsible entity for facilities that are part of a required undervoltage load shedding (UVLS) program designed, installed, and operated for the protection of the bulk power system.

*[Exclusion: A load-serving entity will not be registered based on these criteria if responsibilities for compliance with approved NERC reliability standards or associated requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a load-serving entity, balancing authority, transmission operator, G&T cooperative or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.]*

- III.a.4 Distribution providers registered under the criteria in III.b.1 or III.b.2 will be registered as a load serving entity (LSE) for all load directly connected to their distribution facilities.

*[Exclusion: A distribution provider will not be registered based on this criterion if responsibilities for compliance with approved NERC reliability standards or associated requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a load-serving entity, balancing authority, transmission operator, G&T cooperative, or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.]*

III(b) Distribution Provider:

- III.b.1 Distribution provider system serving >25 MW of peak load that is directly connected to the bulk power system.

*[Exclusion: A distribution provider will not be registered based on this criterion if responsibilities for compliance with approved NERC reliability standards or associated requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a load-serving entity, balancing authority, transmission operator, G&T cooperative, or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.] or;*

- III.b.2 Distribution provider is the responsible entity that owns, controls, or operates facilities that are part of any of the following protection systems or programs designed, installed, and operated for the protection of the bulk power system:

- a required UFLS program.
- a required UVLS program.
- a required special protection system.
- a required transmission protection system.

*[Exclusion: A distribution provider will not be registered based on these criteria if responsibilities for compliance with approved NERC reliability standards or associated requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a load-serving entity, balancing authority, transmission operator, G&T cooperative, or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.]*

III(c) Generator Owner/Operator:

- III.c.1 Individual generating unit > 20 MVA (gross nameplate rating) and is directly connected to the bulk power system, or;
- III.c.2 Generating plant/facility > 75 MVA (gross aggregate nameplate rating) or when the entity has responsibility for any facility consisting of one or more units that are connected to the bulk power system at a common bus with total generation above 75 MVA gross nameplate rating, or;
- III.c.3 Any generator, regardless of size, that is a blackstart unit material to and designated as part of a transmission operator entity's restoration plan, or;

- III.c.4 Any generator, regardless of size, that is material to the reliability of the bulk power system.

*[Exclusions:*

*A generator owner/operator will not be registered based on these criteria if responsibilities for compliance with approved NERC reliability standards or associated requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a load-serving entity, G&T cooperative or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.*

*As a general matter, a customer-owned or operated generator/generation that serves all or part of retail load with electric energy on the customer's side of the retail meter may be excluded as a candidate for registration based on these criteria if (i) the net capacity provided to the bulk power system does not exceed the criteria above or the Regional Entity otherwise determines the generator is not material to the bulk power system and (ii) standby, back-up and maintenance power services are provided to the generator or to the retail load pursuant to a binding obligation with another generator owner/operator or under terms approved by the local regulatory authority or the Federal Energy Regulatory Commission, as applicable.]*

III(d) Transmission Owner/Operator:

- III.d.1 An entity that owns/operates an integrated transmission element associated with the bulk power system 100 kV and above, or lower voltage as defined by the Regional Entity necessary to provide for the reliable operation of the interconnected transmission grid; or
- III.d.2 An entity that owns/operates a transmission element below 100 kV associated with a facility that is included on a critical facilities list that is defined by the Regional Entity.

*[Exclusion: A transmission owner/operator will not be registered based on these criteria if responsibilities for compliance with approved NERC reliability standards or associated requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a load-serving entity, G&T cooperative or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.]*

IV. Joint Registration Organization and applicable Member Registration.

Pursuant to FERC's directive in paragraph 107 of Order No. 693, NERC's rules pertaining to joint registrations and Joint Registration Organizations are now found in Section 501 and 507 of the NERC Rules of Procedure.



- V. If NERC or a Regional Entity encounters an organization that is not listed in the compliance registry, but which should be subject to the reliability standards, NERC or the Regional Entity is obligated and will add that organization to the registry, subject to that organization's right to challenge as provided in Section 500 of NERC's Rules of Procedure and as described in Note 3 below.

### **Notes to the above Criteria**

1. The above are general criteria only. The Regional Entity considering registration of an organization not meeting (e.g., smaller in size than) the criteria may propose registration of that organization if the Regional Entity believes and can reasonably demonstrate<sup>5</sup> that the organization is a bulk power system owner, or operates, or uses bulk power system assets, and is material to the reliability of the bulk power system. Similarly, the Regional Entity may exclude an organization that meets the criteria described above as a candidate for registration if it believes and can reasonably demonstrate to NERC that the bulk power system owner, operator, or user does not have a material impact on the reliability of the bulk power system.
2. An organization not identified using the criteria, but wishing to be registered, may request that it be registered. For further information refer to: NERC Rules of Procedure, Section 500 – Organization Registration and Certification; Part 1.3.
3. An organization may challenge its registration within the compliance registry. NERC or the Regional Entity will provide the organization with all information necessary to timely challenge that determination including notice of the deadline for contesting the determination and the relevant procedures to be followed as described in the NERC Rules of Procedure; Section 500 – Organization Registration and Certification.
4. If an entity is part of a class of entities excluded based on the criteria above as individually being unlikely to have a material impact on the reliability of the bulk power system, but that in aggregate have been demonstrated to have such an impact it may be registered for applicable standards and requirements irrespective of other considerations.

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<sup>5</sup> The reasonableness of any such demonstration will be subject to review and remand by NERC itself, or by any agency having regulatory or statutory oversight of NERC as the ERO (e.g., FERC or appropriate Canadian authorities).

**Attachment B**

**NERC Statement of Compliance Registry Criteria (Revision 5.0)  
Redline Comparison to Revision 4.0**

# NERC

NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

# NERC

NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

## Statement of Compliance Registry Criteria (Revision 45.0)

### Summary

Since becoming the Electric Reliability Organization (ERO), NERC has initiated a program to identify candidate organizations for its compliance registry. The program, conducted by NERC and the Regional Entities<sup>1</sup>, will also confirm the functions and information now on file for currently-registered organizations. NERC and the Regional Entities have the obligation to identify and register all entities that meet the criteria for inclusion in the compliance registry, as further explained in the balance of this document.

This document describes how NERC will identify organizations that may be candidates for registration and assign them to the compliance registry.

Organizations will be responsible to register and to comply with approved reliability standards to the extent that they are owners, operators, and users of the bulk power system, perform a function listed in the functional types identified in Section II of this document, and are material to the reliable operation of the interconnected bulk power system as defined by the criteria and notes set forth in this document. NERC will apply the following principles to the compliance registry:

- In order to carry out its responsibilities related to enforcement of Reliability Standards, NERC must identify the owners, operators, and users of the bulk power system who have a material impact<sup>2</sup> on the bulk power system through a compliance registry. NERC and the Regional Entities will make their best efforts to identify all owners, users and operators who have a material reliability impact on the bulk power system in order to develop a complete and current registry list. The registry will be updated as required and maintained on an on-going basis.

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<sup>1</sup> The term “Regional Entities” includes Cross-Border Regional Entities.

<sup>2</sup> The criteria for determining whether an entity will be placed on the registry are set forth in the balance of this document. At any time a person may recommend in writing, with supporting reasons, to the director of compliance that an organization be added to or removed from the compliance registry, pursuant to NERC ROP 501.1.3.5.

- Organizations listed in the compliance registry are responsible and will be monitored for compliance with applicable mandatory reliability standards. They will be subject to NERC's and the Regional Entities' compliance and enforcement programs.
- NERC and Regional Entities will not monitor nor hold those not in the registry responsible for compliance with the standards. An entity which is not initially placed on the registry, but which is identified subsequently as having a material reliability impact, will be added to the registry. Such entity will not be subject to a sanction or penalty by NERC or the Regional Entity for actions or inactions prior to being placed on the registry, but may be required to comply with a remedial action directive or mitigation plan in order to become compliant with applicable standards. After such entity has been placed on the compliance registry, it shall be responsible for complying with Reliability Standards and may be subject to sanctions or penalties as well as any remedial action directives and mitigation plans required by the Regional Entities or NERC for future violations, including any failure to follow a remedial action directive or mitigation plan to become compliant with Reliability Standards.
- Required compliance by a given organization with the standards will begin the later of (i) inclusion of that organization in the compliance registry and (ii) approval by the appropriate governmental authority of mandatory reliability standards applicable to the entity.

Entities responsible for funding NERC and the Regional Entities have been identified in the budget documents filed with FERC. Presence on or absence from the compliance registry has no bearing on an entity's independent responsibility for funding NERC and the Regional Entities.

## Background

In 2005, NERC and the Regional Entities conducted a voluntary organization registration program limited to balancing authorities, planning authorities, regional reliability organizations, reliability coordinators, transmission operators, and transmission planners. The list of the entities that were registered constitutes what NERC considered at that time as its compliance registry.

NERC has recently initiated a broader program to identify additional organizations potentially eligible to be included in the compliance registry and to confirm the information of organizations currently on file. NERC believes this is a prudent activity at this time because:

- As of July 20, 2006, NERC was certified as the ERO created for the U.S. by the Energy Policy Act of 2005 (EPAAct) and FERC Order 672. NERC has also filed with Canadian authorities for similar recognition in their respective jurisdictions.
- FERC's Order 672 directs that owners, operators and users of the bulk power system shall be registered with the ERO and the appropriate Regional Entities.
- As the ERO, NERC has filed its current reliability standards with FERC and with Canadian authorities. As accepted and approved by FERC and appropriate Canadian authorities, the reliability standards are no longer voluntary, and organizations that do not

fully comply with them may face penalties or other sanctions determined and levied by NERC or the Regional Entities.

- NERC's reliability standards include compliance requirements for additional reliability function types beyond the six types registered by earlier registration programs.
- Based on selection as the ERO, the extension and expansion of NERC's current registration program<sup>3</sup> is the means by which NERC and the Regional Entities will plan, manage and execute reliability standard compliance oversight of owners, operators, and users of the bulk power system.
- Organizations listed in the compliance registry are subject to NERC's and the Regional Entities' compliance and enforcement programs.

### **Statement of Issue**

As the ERO, NERC intends to comprehensively and thoroughly protect the reliability of the grid. To support this goal NERC will include in its compliance registry each entity that NERC concludes can materially impact the reliability of the bulk power system. However, the potential costs and effort of ensuring that every organization potentially within the scope of "owner, operator, and user of the bulk power system" becomes registered while ignoring their impact upon reliability, would be disproportionate to the improvement in reliability that would reasonably be anticipated from doing so.

NERC wishes to identify as many organizations as possible that may need to be listed in its compliance registry. Identifying these organizations is necessary and prudent at this time for the purpose of determining resource needs, both at the NERC and Regional Entity level, and to begin the process of communication with these entities regarding their potential responsibilities and obligations. NERC and the Regional Entities believe that primary candidate entities can be identified at this time, while other entities can be identified later, as and when needed. Selection principles and criteria for the identification of these initial entities are required. This list will become the "Initial Non-binding Organization Registration List". With FERC having made the approved Reliability Standards enforceable, this list becomes the NERC Compliance Registry.

### **Resolution**

NERC and the Regional Entities have identified two principles they believe are key to the entity selection process. These are:

1. There needs to be consistency between regions and across the continent with respect to which entities are registered, and;
2. Any entity reasonably deemed material to the reliability of the bulk power system will be registered, irrespective of other considerations.

To address the second principle the Regional Entities, working with NERC, will identify and register any entity they deem material to the reliability of the bulk power system.

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<sup>3</sup> See: NERC ERO Application; Exhibit C; Section 500 – Organization Registration and Certification.

In order to promote consistency, NERC and the Regional Entities intend to use the following criteria as the basis for determining whether particular entities should be identified as candidates for registration. All organizations meeting or exceeding the criteria will be identified as candidates.

The following four groups of criteria (Sections I-IV) plus the statements in Section V will provide guidance regarding an entity's registration status:

- Section I determines if the entity is an owner, operator, or user of the bulk power system and, hence, a candidate for organization registration.
- Section II uses NERC's current functional type definitions to provide an initial determination of the functional types for which the entities identified in Section I should be considered for registration.
- Section III lists the criteria regarding smaller entities; these criteria can be used to forego the registration of entities that were selected to be considered for registration pursuant to Sections I and II and, if circumstances change, for later removing entities from the registration list that no longer meet the relevant criteria.
- Section IV — additional criteria for joint registration. Joint registration criteria may be used by Joint Action Agencies, Generation and Transmission Cooperatives and other entities which agree upon a clear division of compliance responsibility for Reliability Standards by written agreement. Pursuant to FERC's directive in paragraph 107 of Order No. 693, rules pertaining to joint registration and Joint Registration Organizations will now be found in Sections 501 and 507 of the NERC Rules of Procedure.

- I. Entities that use, own or operate elements of the bulk electric system as established by NERC's approved definition of bulk electric system below are (i) owners, operators, and users of the bulk power system and (ii) candidates for registration:

*"As defined by the Regional Reliability Organization, the electrical generation resources, transmission lines, interconnections with neighboring systems, and associated equipment, generally operated at voltages of 100 kV or higher. Radial transmission facilities serving only load with one transmission source are generally not included in this definition."<sup>4</sup>*

- II. Entities identified in Part I above will be categorized as registration candidates who may be subject to registration under one or more appropriate functional entity types based on a comparison of the functions the entity normally performs against the following function type definitions:

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<sup>4</sup> However, ownership of radial transmission facilities intended to be covered by the vegetation management standard (applicable to transmission lines 200 kV and above) would be included in this definition.

| <b>Function Type</b>      | <b>Acronym</b> | <b>Definition/Discussion</b>   |
|---------------------------|----------------|--|
| Balancing Authority       | BA             | The responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a BA area, and supports Interconnection frequency in real-time.  |
| Distribution Provider     | DP             | Provides and operates the “wires” between the transmission system and the end-use customer. For those end-use customers who are served at transmission voltages, the Transmission Owner also serves as the DP. Thus, the DP is not defined by a specific voltage, but rather as performing the Distribution function at any voltage. |
| Generator Operator        | GOP            | The entity that operates generating unit(s) and performs the functions of supplying energy and interconnected operations services.   |
| Generator Owner           | GO             | Entity that owns and maintains generating units.   |
| Interchange Authority     | IA             | The responsible entity that authorizes implementation of valid and balanced Interchange Schedules between Balancing Authority Areas, and ensures communication of Interchange information for reliability assessment purposes.   |
| Load-Serving Entity       | LSE            | Secures energy and transmission service (and related interconnected operations services) to serve the electrical demand and energy requirements of its end-use customers.  |
| Planning Authority        | PA             | The responsible entity that coordinates and integrates transmission facility and service plans, resource plans, and protection systems.  |
| Purchasing-Selling Entity | PSE            | The entity that purchases or sells and takes title to energy, capacity, and interconnected operations services. PSE may be affiliated or unaffiliated merchants and may or may not own generating facilities.  |

| Function Type           | Acronym | Definition/Discussion   |
|-------------------------|---------|---|
| Reliability Coordinator | RC      | The entity that is the highest level of authority who is responsible for the reliable operation of the bulk power system, has the wide area view of the bulk power system, and has the operating tools, processes and procedures, including the authority to prevent or mitigate emergency operating situations in both next-day analysis and real-time operations. The RC has the purview that is broad enough to enable the calculation of interconnection reliability operating limits, which may be based on the operating parameters of transmission systems beyond any Transmission Operator's vision.                    |
| Reserve Sharing Group   | RSG     | A group whose members consist of two or more Balancing Authorities that collectively maintain, allocate, and supply operating reserves required for each BA's use in recovering from contingencies within the group. Scheduling energy from an adjacent BA to aid recovery need not constitute reserve sharing provided the transaction is ramped in over a period the supplying party could reasonably be expected to load generation in (e.g., ten minutes). If the transaction is ramped in quicker, (e.g., between zero and ten minutes) then, for the purposes of disturbance control performance, the areas become a RSG. |
| Resource Planner        | RP      | The entity that develops a long-term (generally one year and beyond) plan for the resource adequacy of specific loads (customer demand and energy requirements) within a PA area.   |
| Transmission Owner      | TO      | The entity that owns and maintains transmission facilities.   |
| Transmission Operator   | TOP     | The entity responsible for the reliability of its local transmission system and operates or directs the operations of the transmission facilities.  |
| Transmission Planner    | TP      | The entity that develops a long-term (generally one year and beyond) plan for the reliability (adequacy) of the interconnected bulk electric transmission systems within its portion of the PA area.  |



| Function Type                 | Acronym | Definition/Discussion   |
|-------------------------------|---------|---|
| Transmission Service Provider | TSP     | The entity that administers the transmission tariff and provides transmission service to transmission customers under applicable transmission service agreements. |

III. Entities identified in Part II above as being subject to registration as an LSE, DP, GO, GOP, TO, or TOP should be excluded from the registration list for these functions if they do not meet any of the criteria listed below:

III (a) Load-serving Entity:

- III.a.1 Load-serving entity peak load is > 25 MW and is directly connected to the bulk power (>100 kV) system, or;
- III.a.2 Load-serving entity is designated as the responsible entity for facilities that are part of a required underfrequency load shedding (UFLS) program designed, installed, and operated for the protection of the bulk power system, or;
- III.a.3 Load-serving entity is designated as the responsible entity for facilities that are part of a required undervoltage load shedding (UVLS) program designed, installed, and operated for the protection of the bulk power system.

*[Exclusion: A load-serving entity will not be registered based on these criteria if responsibilities for compliance with approved NERC reliability standards or associated requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a load-serving entity, balancing authority, transmission operator, G&T cooperative or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.]*

- III.a.4 Distribution providers registered under the criteria in III.b.1 or III.b.2 will be registered as a load serving entity (LSE) for all load directly connected to their distribution facilities.

*[Exclusion: A distribution provider will not be registered based on this criterion if responsibilities for compliance with approved NERC reliability standards or associated requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a load-serving entity, balancing authority, transmission operator, G&T cooperative, or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.]*

III(b) Distribution Provider:

- III.b.1 Distribution provider system serving >25 MW of peak load that is directly connected to the bulk power system.

*[Exclusion: A distribution provider will not be registered based on this criterion if responsibilities for compliance with approved NERC reliability standards or associated requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a load-serving entity, balancing authority, transmission operator, G&T cooperative, or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.] or;*

- III.b.2 Distribution provider is the responsible entity that owns, controls, or operates facilities that are part of any of the following protection systems or programs designed, installed, and operated for the protection of the bulk power system:

- a required UFLS program.
- a required UVLS program.
- a required special protection system.
- a required transmission protection system.

*[Exclusion: A distribution provider will not be registered based on these criteria if responsibilities for compliance with approved NERC reliability standards or associated requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a load-serving entity, balancing authority, transmission operator, G&T cooperative, or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.]*

III(c) Generator Owner/Operator:

- III.c.1 Individual generating unit > 20 MVA (gross nameplate rating) and is directly connected to the bulk power system, or;
- III.c.2 Generating plant/facility > 75 MVA (gross aggregate nameplate rating) or when the entity has responsibility for any facility consisting of one or more units that are connected to the bulk power system at a common bus with total generation above 75 MVA gross nameplate rating, or;
- III.c.3 Any generator, regardless of size, that is a blackstart unit material to and designated as part of a transmission operator entity's restoration plan, or;

III.c.4 Any generator, regardless of size, that is material to the reliability of the bulk power system.

*[Exclusions:*

*A generator owner/operator will not be registered based on these criteria if responsibilities for compliance with approved NERC reliability standards or associated requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a load-serving entity, G&T cooperative or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.*

*As a general matter, a customer-owned or operated generator/generation that serves all or part of retail load with electric energy on the customer's side of the retail meter may be excluded as a candidate for registration based on these criteria if (i) the net capacity provided to the bulk power system does not exceed the criteria above or the Regional Entity otherwise determines the generator is not material to the bulk power system and (ii) standby, back-up and maintenance power services are provided to the generator or to the retail load pursuant to a binding obligation with another generator owner/operator or under terms approved by the local regulatory authority or the Federal Energy Regulatory Commission, as applicable.]*

III(d) Transmission Owner/Operator:

III.d.1 An entity that owns/operates an integrated transmission element associated with the bulk power system 100 kV and above, or lower voltage as defined by the Regional Entity necessary to provide for the reliable operation of the interconnected transmission grid; or

III.d.2 An entity that owns/operates a transmission element below 100 kV associated with a facility that is included on a critical facilities list that is defined by the Regional Entity.

*[Exclusion: A transmission owner/operator will not be registered based on these criteria if responsibilities for compliance with approved NERC reliability standards or associated requirements including reporting have been transferred by written agreement to another entity that has registered for the appropriate function for the transferred responsibilities, such as a load-serving entity, G&T cooperative or joint action agency as described in Sections 501 and 507 of the NERC Rules of Procedure.]*

IV. Joint Registration Organization and applicable Member Registration.

Pursuant to FERC's directive in paragraph 107 of Order No. 693, NERC's rules pertaining to joint registrations and Joint Registration Organizations are now found in Section 501 and 507 of the NERC Rules of Procedure.

- V. If NERC or a Regional Entity encounters an organization that is not listed in the compliance registry, but which should be subject to the reliability standards, NERC or the Regional Entity is obligated and will add that organization to the registry, subject to that organization's right to challenge as provided in Section 500 of NERC's Rules of Procedure and as described in Note 3 below.

### Notes to the above Criteria

1. The above are general criteria only. The Regional Entity considering registration of an organization not meeting (e.g., smaller in size than) the criteria may propose registration of that organization if the Regional Entity believes and can reasonably demonstrate<sup>5</sup> that the organization is a bulk power system owner, or operates, or uses bulk power system assets, and is material to the reliability of the bulk power system. Similarly, the Regional Entity may exclude an organization that meets the criteria described above as a candidate for registration if it believes and can reasonably demonstrate to NERC that the bulk power system owner, operator, or user does not have a material impact on the reliability of the bulk power system.
2. An organization not identified using the criteria, but wishing to be registered, may request that it be registered. For further information refer to: NERC Rules of Procedure, Section 500 – Organization Registration and Certification; Part 1.3.
3. An organization may challenge its registration within the compliance registry. NERC or the Regional Entity will provide the organization with all information necessary to timely challenge that determination including notice of the deadline for contesting the determination and the relevant procedures to be followed as described in the NERC Rules of Procedure; Section 500 – Organization Registration and Certification.
4. If an entity is part of a class of entities excluded based on the criteria above as individually being unlikely to have a material impact on the reliability of the bulk power system, but that in aggregate have been demonstrated to have such an impact it may be registered for applicable standards and requirements irrespective of other considerations.

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<sup>5</sup> The reasonableness of any such demonstration will be subject to review and remand by NERC itself, or by any agency having regulatory or statutory oversight of NERC as the ERO (e.g., FERC or appropriate Canadian authorities).