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I. INTRODUCTION

The North American Electric Reliability Corporation (“NERC”) respectfully submits this Response to the Federal Energy Regulatory Commission’s (“FERC” or the “Commission”) Request for Data issued February 27, 2009 in these dockets,¹ regarding NERC's December 15, 2008 Compliance Filing on the NERC 2009 Business Plan and Budget. The Data Request requests additional data from NERC to help FERC Staff with its analysis of the December 15, 2008 compliance filing. NERC submitted a compliance filing on December 15, 2008 in response to the October 16, 2008 Order² wherein the Commission conditionally accepted the 2009 Business Plans and Budgets of NERC, as the Electric Reliability Organization (“ERO”), the eight Regional Entities,³ the Western Interconnection Regional Advisory Body (“WIRAB”), and specified certain compliance items to be filed by NERC within 60 days (*i.e.*, by December 15, 2008).⁴ This filing responds to the Data Request regarding certain issues with respect to the December 15, 2008 compliance filing.

¹ *North American Electric Reliability Corporation*, “Request for data regarding NERC’s December 15, 2008 Compliance Filing on the NERC 2009 Business Plan and Budget, *Docket Nos. RR08-6-002 and RR07-014-003* (February 27, 2009) (“Data Request”).

² *North American Electric Reliability Corporation*, Order Conditionally Accepting 2009 Business Plan and Budget of the North American Electric Reliability Corporation and Ordering Compliance Filings, 125 FERC ¶ 61,056 (2008) (“2009 ERO Budget Order”).

³ The eight Regional Entities are the Florida Reliability Coordinating Council (“FRCC”), Midwest Reliability Organization (“MRO”), Northeast Power Coordinating Council, Inc. (“NPCC”), ReliabilityFirst Corporation (“ReliabilityFirst”), SERC Reliability Corporation (“SERC”), Southwest Power Pool Regional Entity (“SPP RE”), Texas Regional Entity, a Division of Electric Reliability Council of Texas (“ERCOT”) (“Texas RE”), and Western Electricity Coordinating Council (“WECC”).

⁴ 2009 ERO Budget Order at PP 25, 28, 34, 37, 47, 53, 54, 55, 57, 59, 60, 62, 67, 72 and 73.

II. NOTICES AND COMMUNICATIONS

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

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III. RESPONSES TO THE FEBRUARY 27, 2009 DATA REQUEST

- A. *Request No. 1: Provide the NERC Operating Committee report to the Financial Audit Committee quoted at page 27 of the NERC compliance filing.***

Response:

Attachment 1 contains the July 3, 2008 “Reliability Readiness Evaluation Program and Proposed Reliability Assistance Program” document, as requested.

Response Prepared by:
Larry J. Kezele
Manager Reliability Support Services
609-524-7004

B. *Request No. 2: Please identify which of the many functions of the Reliability Readiness Evaluation Program have become redundant within the new ERO and compliance environment and identify which of the functions have not become redundant.[] For those you have identified as being redundant, specify how each is now redundant in regard to one or more other programs.*

Response:

This response first describes several of the NERC programs and then addresses the redundancies the question focuses on.

Reliability Readiness Audit/Evaluation

Following on the heels of the 2003 Blackout, NERC created the Readiness Audit Program in February 2004.⁵ This program predated: (i) the Energy Policy Act of 2005; (ii) completion of the final Blackout Report; (iii) adoption of the Commission's Part 39 rules for certification of an ERO; (iv) certification of NERC as the ERO in 2006; and (v) adoption of mandatory and enforceable Reliability Standards in mid-2007. FirstEnergy and Midwest Independent Transmission System Operator were the first two entities audited in February 2004.

The Readiness Audit Program was initiated to assess the vulnerability of the North American bulk power system to the recurrence of the same or similar events to the August 2003 Northeast blackout. In the absence of mandatory and enforceable reliability standards, NERC established the Readiness Audit Program to assess, on a three-year cycle, the capability of all control areas and reliability coordinators to perform their reliability functions. The purpose of the readiness audits was to provide an independent review of control area and reliability coordinator operations to identify areas for improvement and help them achieve excellence. The readiness audits were to focus on reliability coordinators, balancing authorities and transmission

⁵ In 2007, the name of the program was changed to Reliability Readiness Evaluation and Improvement Program.

operators – the entities with the primary responsibility for the reliable operation of the bulk power system. NERC planned to conduct audits at the rate of more than one per week. Final audit/evaluation reports were publicly posted on NERC’s website.

The Readiness Audit Program worked with industry experts to conduct on-site evaluations of all balancing authorities, transmission operators, reliability coordinators, and other entities that support the reliable operation of the bulk power system in North America to determine their readiness to maintain safe and reliable operations. The evaluations identified both strengths and areas for improvement in an effort to promote excellence in operations among these organizations.

Compliance Monitoring and Enforcement

Following the passage of the Energy Policy Act and as part of NERC’s obtaining certification as the ERO under section 215 of the Federal Power Act, NERC and the eight Regional Entities developed an extensive Compliance Monitoring and Enforcement Program, which includes a program of periodic audits conducted by the Regional Entities as well as seven other means of assessing a registered entity’s compliance with reliability standards (self-certifications, spot checking, compliance violation investigations, self-reporting, periodic data submittals, exception reporting, and complaints). For every violation identified, registered entities have been required to develop and implement a mitigation plan that serves to cure the violation on a going forward basis.

Organization Certification

As the ERO, NERC conducts Organization Certification Program, which it has continued to enhance. That certification program is event-based. When a new reliability organization (especially, a balancing authority or reliability coordinator) is formed, or when an existing

reliability organization takes on substantially increased or changes to responsibilities, NERC requires a certification or re-certification by either NERC or the appropriate Regional Entity. That certification or re-certification is forward-looking and focuses on whether the responsible entity has the tools, personnel and procedures in place to fulfill its reliability responsibilities. Examples include the certification of the Saskatchewan Power reliability coordinator in 2007 and the re-certification of the WECC reliability coordination function in late 2008. As a part of the certification or recertification process, the certification team develops a punch list of issues that must be satisfactorily addressed by the entity, and certification or recertification is contingent on those matters being resolved.

Event Analysis and Benchmarking

As the ERO, NERC has also placed increased emphasis on event analysis and information exchange. Each significant event or disturbance on the bulk power system is examined initially to determine the level of review the particular event should receive and who should perform that review. Depending on the level of significance, the review will be performed by NERC, the Regional Entity, or the registered entity itself. The point of reviewing the event or disturbance is to understand what happened, why it happened, and what needs to be done to prevent a recurrence. Reports of the reviews are made available to those in the industry to share the lessons learned. One example is NERC's December 19, 2008 report on the August 4, 2007 Eastern Interconnection Frequency Excursion.

The combination of event analysis and benchmarking also allows NERC to identify the most significant areas for improvement on the bulk power system and to use that information to drive system-wide reliability improvement. For example, system protection performance has always been a major contributing or aggravating factor in system disturbances, often making the

difference between an event being minor or major. NERC has already seen the rewards from these efforts in dealing with relay loadability (the so-called zone 3 issue) following the 2003 blackout — only 4 instances related to the zone 3 issue have occurred in North America in the last 2.5 years.

NERC has launched a multi-year effort (the amount of engineering work necessary and the investment involved will make it lengthy) to comprehensively address a broad spectrum of remaining system protection issues. It will be a coordinated effort for NERC and the industry, working in collaboration with the IEEE Power System Relay Committee, among others, to improve the application and performance of power system protection systems through fostering technical excellence in protection and control system design, coordination, and practices.

Industry Alerts

NERC has developed an effective program for communicating targeted information and recommendations derived from events analysis and other sources to appropriate groups of users, owners and operators of the bulk power system. The Alerts, authorized under Rule 810 of NERC's Rules of Procedure, have three levels:

Level 1 (Advisories) – purely informational, intended to advise certain segments of the owners, operators and users of the bulk power system of findings and lessons learned;

Level 2 (Recommendations) – specific actions that NERC is recommending be considered on a particular topic by certain segments of owners, operators, and users of the bulk power system according to each entity's facts and circumstances;

Level 3 (Essential Actions) – specific actions that NERC has determined are essential for certain segments of owners, operators, or users of the bulk power system to take to ensure the reliability of the bulk power system. Essential Actions require NERC board approval before issuance.

NERC has now issued 17 Advisories and 4 Recommendations under this authority.⁶ Alert Levels 2 and 3 carry with them a requirement that the users, owners and operators to which they are sent acknowledge receipt, and a mandatory reporting requirement regarding actions taken and timely updates on progress towards resolving the issues identified in the Alerts.

Redundancies

As indicated in NERC's 2009 Business Plan and Budget filing and in NERC's December 15, 2008 compliance filing in this docket, NERC took account of, among other things, the redundancies between the Readiness Evaluation Program and other NERC programs in making decisions and setting priorities for the 2009 Business Plan and Budget.⁷ The Readiness Program had several functions. First and foremost, the program assessed the capability of entities with primary responsibility for the reliability of the bulk power system (reliability coordinators, balancing authorities and transmission operators) to meet their responsibilities. The program also identified both strengths and areas for improvement in an effort to promote excellence in operations among these entities. It also provided peer-to-peer consultation by industry experts with entity personnel.

The principal redundancy between the Readiness Evaluation Program and the Compliance Monitoring and Enforcement Program is the "assessment of capability" function,

⁶ The list of Alerts may be viewed at <http://www.nerc.com/page.php?cid=5|63>.

⁷ In considering the Reliability Readiness Program in 2008, the NERC Operating Committee (OC) Reliability Readiness Review Program Task Force's (Task Force) concluded that recent cycles of readiness reviews appeared to include overlaps of the NERC compliance and certification programs and the Events Analysis Program. Their review was "indicating a large degree of redundancy and creating confusion over the objectives of and relationships between compliance audits, event investigations, and readiness reviews." The Task Force indicated the NERC Readiness Program had effectively completed its post-2003 Blackout mission, pointing out that aggressive compliance audit processes are now in place and event analysis and investigations program had been established within NERC and the Regional Entities. *See* report in response to Data Request No. 1.

especially the periodic on-site examination or audit that is common to both programs. As noted above, the NERC Readiness Evaluation Program was originally referred to as a Readiness Audit Program, initiated in response to the August 14, 2003 blackout to assess the vulnerability of similar events happening again on the bulk power system in North America. The original Readiness Audit Program was based on an evaluation program already established in the Western Interconnection, and the program auditors used the reliability standards as the basis for conducting the evaluations.

After NERC's certification as the ERO and the adoption of its Compliance Program, the perception of the Readiness Audit Program as a "compliance" program lingered in the industry (although NERC attempted to communicate the differences), primarily, because both programs conducted pre-scheduled, on-site reviews and had both originally been termed "audit" programs. NERC emphasized that 1) the Compliance Program focuses on whether an entity complies with approved written standards, while the Readiness Program evaluates how prepared an entity is from a process view; and 2) the compliance audit is objective and backward looking, while the readiness evaluation is subjective and forward looking. To emphasize the difference between readiness and compliance, the Readiness Program stopped using the term "audit" and adopted the term "evaluation" when NERC established its Compliance Program based on mandatory standards. Regardless, entities were still skeptical about scheduled readiness "evaluations" often asking questions before the visit regarding the implications to compliance. In practice, however, the Compliance Program also considers the forward looking issue of whether an entity has in place the necessary tools to operate reliably as defined in applicable approved reliability standards.

As in the case of the current Compliance Program, the readiness evaluations were scheduled, on-site reviews of a registered entity. Both the readiness evaluations and the compliance audits require registered entities to engage in substantial preparation, to respond to pre-visit questionnaires and to participate in on-site interviews. Prior to an evaluation, and similar to a compliance audit or investigation, NERC sends a request for information and a questionnaire. Some of the documents requested and questions asked are similar to what is in the compliance audit information and questionnaire package. For example, the request “Please describe your training program for new system operators and continuing education” appeared in both readiness evaluation and compliance audit questionnaires. Entities justifiably expressed concern that the same information and documents were requested twice. In addition, some of the on-site interview questions are necessarily similar between readiness evaluations and compliance audits because they requested basic information. In short, it was increasingly difficult to distinguish between readiness evaluations and compliance audits, and they required duplicative efforts.

Another significant redundancy is the reports produced by the readiness evaluation program and NERC’s other programs. Both the readiness evaluations and the compliance audits include an exit interview with senior management and a report that details the findings and recommendations of the evaluation or audit, both in terms of strengths and weaknesses. The recommendations from a readiness evaluation, although they are not mandatory, will if implemented enhance the entity’s readiness to operate reliably and maintain the reliability of the bulk power system. The Compliance Program and Events Analysis Program similarly identify areas for improvement. In the case of the Compliance Program, entities may be required to undertake improvements as part of a settlement agreement or mandatory mitigation plan that

must be approved by Regional Entities as well as NERC. The NERC Alerts procedure also provides a mechanism to convey recommendations for improvement to the industry and includes for Alert Levels 2 and 3 mandatory reporting on the actions registered entities have taken to address the issues identified. Most importantly, needed improvements in bulk power system performance are identified through event analysis and benchmarking and addressed systemically rather than user by user (note the system protection initiative discussed previously).

An ongoing and unavoidable overlap between readiness evaluations compliance audits was the requirement for readiness evaluation teams to report potential noncompliance to the Compliance Program. Although readiness evaluation teams did not actively seek such items, the NERC Rules of Procedure obligate an evaluation team to report evidence “of possible noncompliance with a reliability standard” to NERC “for resolution through the applicable compliance enforcement program.” NERC readiness teams did report potential noncompliance issues on a few evaluations. Violations, whether discovered through a readiness evaluation or a compliance audit, require mitigation plans that address the violation on a forward-looking basis.

Another redundancy is that while the readiness evaluation identified examples of excellence which were disseminated to the industry, NERC now has in place a number of other programs and mechanisms to identify examples of excellence. NERC’s reliability benchmarking program has developed a set of performance metrics and plans to establish appropriate reliability performance benchmarks once more data and clear trends are available. The examples of excellences can be identified using benchmarking results. Examples of excellence are practices that NERC has identified as being exceptionally effective in ensuring and protecting the reliability of the interconnected bulk power system. NERC highlights these practices as examples for the electric industry to use in achieving excellence in system reliability. While

these examples are not intended to serve as requirements or standards, NERC recommends that organizations review and consider them where appropriate for their own operations. The examples of excellence that have been identified are publically posted on NERC's website,⁸ and they will remain available for use and consultation by all.

Further overlaps exist between the readiness evaluation program and NERC's other programs. Once reliability standards became mandatory and enforceable, there were some overlaps between the Readiness Program and the Compliance Program by virtue of certain preparedness requirements included in the reliability standards themselves. The Emergency Preparedness and Operations standards (EOP-001 through EOP-009) provide several examples.

Finally, the Organization Certification Program described above examines essentially the same questions as would a readiness evaluation: does the responsible entity have the tools, procedures, and personnel in place to satisfactorily perform its reliability functions? For entities taking on new major reliability responsibilities and for existing entities that are significantly altering the scope of their reliability activities, the Organization Certification Program accomplishes the "essential capability" function previously accomplished through the Readiness Program.

Question No. 2 also asks NERC to identify aspects of the Readiness Program that are not covered by other NERC programs. The one area where the Readiness Program was not duplicative of NERC's other programs is the consulting aspect made available by assembling teams of industry experts. We understand the benefit that could come from such consulting, but that benefit is no longer best provided by NERC. In part it is an industry resource issue. NERC currently has underway 24 standards drafting teams, and NERC believes that focusing industry

⁸ <http://www.nerc.com/page.php?cid=6%7C76%7C77>

expertise on top priority standards projects and other reliability improvement programs is the best use of industry expertise at the present time.

Response Prepared by:

Jessica Bian
Director of Readiness Evaluation and Benchmarking Program
609-524-7024

- C. *Request No. 3: Provide task force (and NERC Operating Committee) evaluation materials including but not limited to, data collected, official and non-official reports, testimony, or other decisional materials which were used to support NERC's determination that the value of the Readiness Evaluation Program is diminishing, "has become redundant with the new ERO and compliance environment," and should not be continued.***

Response:

Attachment 2 contains the information NERC has identified to date in response to this data request. To the extent that NERC identifies other responsive material, it will promptly submit it to the Commission.

Response Prepared by:

Larry J. Kezele
Manager Reliability Support Services
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- D. *Request No. 4: NERC states that the readiness evaluations have resulted in 3,200 recommendations that have been or currently are being implemented by the evaluated entities. With regard to this statement:***

Response:

- 1. *Describe how NERC tracks the implementation of the recommendations.***

NERC has been requesting updates via e-mail on the implementation of the recommendations on a quarterly basis from the Regional Entities. Once submitted by the Regional Entities, the updates were tracked in an internal Access database. The status of the

recommendations was then brought to the quarterly NERC Board of Trustees and Member Representatives Committee meetings.

- 2. State whether entities are required to implement recommendations within a specified time period. If affirmative, please describe. Also, identify when NERC expects all entities to fully implement outstanding reliability readiness recommendations if the program is not continued.**

The recommendations are not mandatory. Rather, they are simply suggestions made by the readiness evaluation team using its professional judgment. Therefore, the registered entities are not required to implement the recommendations, and there is no specific time that NERC expects them to be fully implemented. While they are not mandatory, over 80% of the recommendations have been implemented.

- 3. Describe how the recommendations are shared with the other applicable entities on the Bulk-Power System and how NERC determines system-wide implementation.**

Public recommendations are included in the final Reliability Readiness Evaluation Reports, which are posted on the NERC Website.

For 2008 reports, see http://www.nerc.com/filez/readiness_evaluations_2008.html. In addition, the 2004-2007 audit/evaluation reports are available at <http://www.nerc.com/page.php?cid=6776>. Each year's report link is listed at the left side of the page.

- 4. What is NERC's plan to monitor any such recommendations that have not been implemented?**

NERC plans to issue the last set of readiness evaluation reports in 2009. The last evaluation is scheduled on March 30-31, 2009. Its report is expected to be available in May 2009.

With the close of the program, NERC will refer any recommendations that have not yet been implemented to the Regional Entities for monitoring in future compliance audits. The

recommendations themselves are not mandatory, and no enforcement action can or will be taken in regard to the recommendations. Nonetheless, the recommendations will be available to the Regional Entities to assist them in focusing their audit programs. NERC would also expect that such recommendations would also be considered as a part of any organization certification or re-certification.

Response Prepared by:

Jessica Bian
Director of Readiness Evaluation and Benchmarking Program
609-524-7024

V. CONCLUSION

The North American Electric Reliability Corporation respectfully requests that the Commission accept this filing as compliance with the February 27, 2009 Data Request.

Respectfully submitted,

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State of New Jersey)

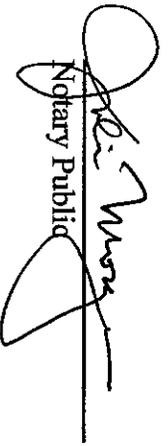
VERIFICATION

I, Jessica Bian being first duly sworn, state that I am Director of Readiness Evaluation and Benchmarking Program for the North American Electric Reliability Corporation; AND THAT I am authorized to execute this Affidavit; that I am familiar with the responses of the North American Electric Reliability Corporation to the February 27, 2009 data requests of the Federal Energy Regulatory Commission; and that, to the best of my information, knowledge and belief, the statements and supporting documents included in this response and appended to this verification are true and correct.



Jessica Bian
Director of Readiness Evaluation and Benchmarking Program
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Tel: (609) 524-7024

Subscribed and sworn to before me on the 13th day of March , 2009.



Notary Public

My Commission Expires: _____

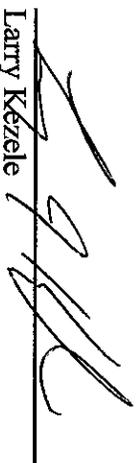


JULIE MORGAN
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 7/9/2013

County of Mercer)
State of New Jersey)

VERIFICATION

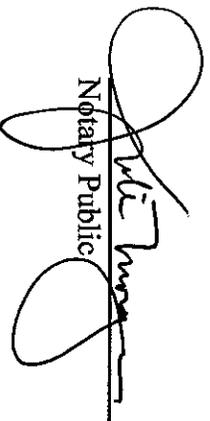
I, Larry Kezele being first duly sworn, state that I am Manager of Reliability Support Services for the North American Electric Reliability Corporation; AND THAT I am authorized to execute this Affidavit; that I am familiar with the responses of the North American Electric Reliability Corporation to the February 27, 2009 data requests of the Federal Energy Regulatory Commission; and that, to the best of my information, knowledge and belief, the statements and supporting documents included in this response and appended to this verification are true and correct.



Larry Kezele

Manager of Reliability Support Services
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Subscribed and sworn to before me on the 13th day of March 2009.



Notary Public

My Commission Expires: _____

JULIE MORGAN
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 7/9/2013

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

NORTH AMERICAN ELECTRIC)	
RELIABILITY CORPORATION)	Docket Nos. RR08-6-002
)	RR07-14-003

**NOTICE OF RESPONSE OF THE
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
TO THE FEBRUARY 27, 2009 DATA REQUEST
(DATE)**

Take notice that on March 16, 2009, the North American Electric Reliability Corporation (NERC) filed a Response to the Federal Energy Regulatory Commission's (Commission) February 27, 2009 Data Request, in the captioned proceeding.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, D.C. There is an "eSubscription" link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: [BLANK]

Kimberly D. Bose,
Secretary

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 16th day of March, 2009.

/s/ Rebecca J. Michael

Rebecca J. Michael

*Attorney for North American Electric
Reliability Corporation*