UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

North American Electric Reliability Corporation	Docket No. RR15-4-001

COMMENTS OF AMERICAN PUBLIC POWER ASSOCIATION, NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION, AND TRANSMISSION ACCESS POLICY STUDY GROUP

On July 17, 2015, the North American Electric Reliability Corporation ("NERC") filed its Compliance Filing and Petition for Approval of Rules of Procedure Revisions ("Compliance Filing"),[1] responding to the Commission's March 19, 2015 Order[2] on NERC's December 11, 2014 Petition for Approval of Risk-Based Registration Initiative Rules of Procedure Revisions ("Petition").[3] The RBR Order generally approved NERC's Risk-Based Registration ("RBR") initiative, but denied, without prejudice, NERC's proposal to eliminate Load-Serving Entity ("LSE") registrations and directed NERC to provide additional information to support this aspect of its RBR Petition.

Pursuant to the Commission's July 21, 2015 Combined Notice of Filings #1,[4] the American Public Power Association ("APPA"), the National Rural Electric Cooperative Association ("NRECA"), and the Transmission Access Policy Study Group ("TAPS") (collectively, "Joint Commenters"), intervenors in this proceeding, comment in strong support of NERC's proposal, as buttressed by its comprehensive Compliance Filing.

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[1] eLibrary No. 20150717-5232.

[2] *N. Am. Elec. Reliability Corp.*, 150 FERC ¶ 61,213 (2015) ("RBR Order").

[3] eLibrary No. 20141211-5214.

[4] eLibrary No. 20150721-3053.

Elimination of LSE registrations is an important element of NERC's RBR initiative to align NERC registration and compliance obligations with risk to the Bulk Electric System ("BES").

OVERVIEW

APPA, NRECA, and TAPS, which have strongly supported NERC's RBR initiative as a key step towards achieving NERC's objective of moving to a more risk-informed enterprise, urge prompt approval of NERC's proposal to eliminate the LSE category from its Registry Criteria.[5] NERC's Compliance Filing demonstrates that the BES risks posed by this change are far too insignificant to justify continuing NERC registration of this primarily commercial function and the associated burdens currently imposed on NERC, the Regional Entities, and registered entities.

Joint Commenters worked closely with NERC on its RBR initiative to right-size compliance obligations to BES risk, taking account of NERC's more than seven years of experience gained as the Electric Reliability Organization. We agree with the RBR Order (P 16) that using a risk-informed approach to evaluate and realign compliance obligations is practical and can yield benefits and reduce costs, while maintaining reliability:

> In general, we believe that NERC's alignment of the registration process with the risks to the interconnected transmission network posed by different types of entities is an improvement. We agree with NERC's overall goal of ensuring that entities are registered and made subject to the Reliability Standards based on risk entities pose to the bulk electric system. We find that NERC and stakeholders will benefit from the proposed revisions as efforts will appropriately be directed towards activities with a greater

[5] NERC Rules of Procedure, App. 5B, Statement of Compliance Registry Criteria (effective Mar. 19, 2015), http://www.nerc.com/FilingsOrders/us/RuleOfProcedureDL/Appendix_5B_RegistrationCriteria_20150319.pdf ("Registry Criteria").

> potential impact on bulk electric system reliability. These benefits translate into time and resources saved, which help ensure that the costs of reliability are proportionate to the benefits. We also agree with NERC that it is important to achieve reliability risk mitigation while ensuring the reliability and security of the interconnected transmission network, and the RBR initiative is consistent with this pursuit.

Consistent with NERC's risk-based objective, we supported expansion of the Registry Criteria that would trigger registration of certain distribution providers ("DP") regardless of size,[6] while generally raising the DP threshold from 25 MW to 75 MW, eliminating the Purchasing Selling Entity ("PSE"), Interchange Authority ("IA"), and LSE registrations, and other changes.[7]

Elimination of the LSE registrations is a key component of NERC's right-sizing effort. As the RBR Order (P 42) recognized, the LSE function is primarily commercial. The Commission approved the elimination of the PSE and IA registration functions, which are also commercial. PP 25-27. However, it found the NERC Petition's "considerable amount of information and analysis regarding the proposed elimination" of the LSE function to be incomplete: "[E]liminating the load-serving entity function does not remove the need to provide information required for reliable operation of the bulk

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[6] A DP is subject to registration regardless of size if it owns, controls, or operates a required BES-protective Under-Voltage Load Shedding program, Special Protection System, Remedial Action Scheme, or transmission Protection System, or is responsible for providing services related to Nuclear Plant Interface Requirements, or has field switching personnel identified as performing unique tasks associated with the Transmission Operator's restoration plan that are outside of their normal tasks. Registry Criteria, Sections III(b).2-.4, III(c). We also supported NERC's proposal to register small DPs responsible for operating required UFLS facilities to remain registered for compliance with pertinent standards as UFLS-DPs.

[7] *See* Motion to Intervene and Comments of American Public Power Association, National Rural Electric Cooperative Association, and Transmission Access Policy Study Group (Jan. 12, 2015), eLibrary No. 20150112-5155 ("Initial Joint Comments"), and Joint Response of American Public Power Association, National Rural Electric Cooperative Association, and Transmission Access Policy Study Group to Certain Comments (Jan. 26, 2015), eLibrary No. 20150126-5245 ("Joint Response").

electric system." P 37. The Commission expressed concerns with how and by whom certain LSE tasks would be performed upon elimination of the LSE function; and whether the gap is larger than NERC had calculated because some DPs with loads of 25 MW to 75 MW are eligible for deactivation as a result of Commission approval of the DP-related RBR Registry Criteria changes. PP 38-41, 43. The RBR Order also sought additional information on coordination with NAESB. P 42.

NERC's Compliance Filing addresses each of the Commission's concerns, making a compelling case that removal of the LSE function from the NERC Registry Criteria is warranted in light of the limited BES risk posed by such action:

- ***NERC has accurately estimated the LSEs to be deregistered and the reliability impact of doing so.*** The 27 additional LSEs eligible for deregistration (beyond the 14 identified in NERC's Petition) all fall below the 75 MW DP registration threshold and lack any of the BES risk factors that trigger continued registration of small DPs. Particularly given their wide dispersal on a BA basis, the associated risks are minimal even when potential load growth is considered, and cannot justify continuation of the LSE registration category. *See* Sections I.A.1 and I.A.2 below. Any "gap" is insignificant from a BES reliability perspective.
- ***Load data will continue to be available, and reliability activities will continue to be performed, even after LSE registrations are eliminated.*** NERC's Compliance Filing includes a comprehensive demonstration that no material load information gap will be created by its proposal. Load information will continue to be available from LSEs through their other registrations, and through tariff and contract obligations, as the NERC Compliance Filing details. The Commission's *pro forma* tariff, which was adopted prior to the Energy Policy Act of 2005's addition of Federal Power Act ("FPA") Section 215, provides the overarching framework that assures that load information is provided to those that own and operate the transmission system, and curtailments and load shedding are implemented, to ensure BES reliability. LSE registration for NERC compliance was not and is not necessary to accomplish these objectives. NERC's Compliance Filing confirms that no material reliability gaps will be created by eliminating LSE compliance obligations under currently-effective NERC standards, as well as those pending in NERC development projects and before the Commission. *See* Sections I.B and I.C below and Attachment A hereto.

- ***NERC has coordinated with NAESB.*** NERC's Compliance Filing described its coordination with NAESB, assuring NAESB the opportunity to develop business practice standards where appropriate in light of NERC's anticipated elimination of the largely commercial LSE registration. NERC clearly has acted to "ensure a proper 'hand off' of commercial-related provisions," consistent with the RBR Order, P 27. As in the case of the already approved removal of PSE and IA registrations, there is no justification for continuing LSE registration. *See* Section I.D below.

Thus, for the reasons discussed below and in NERC's Petition and Compliance Filing, the Commission should approve NERC's proposal to eliminate LSE registrations.

I. NERC HAS COMPLIED WITH THE COMMISSION'S DIRECTIVES AND AMPLY DEMONSTRATED THAT ELIMINATION OF THE LSE FUNCTION IS JUSTIFIED BASED ON *DE MINIMIS* RISK TO THE BES

A. NERC has provided ample data regarding the reliability risks posed by the LSEs to be deregistered

1. NERC has accurately estimated the LSEs to be deregistered and the minimal impact on reliability of doing so

The RBR Order directed NERC to revise its estimate of LSEs to be deregistered, taking into account the potential deactivation of DPs with peak load between 25 and 75 MW based on the increase in the general DP registration threshold. PP 39-41. NERC's Compliance Filing does so, providing assurance that this change will pose little BES reliability risk.

Specifically, NERC's Compliance Filing revises its estimate of deregistered LSEs to include DP/LSEs who will be eligible for deregistration based on the revised DP registration criteria. *See, e.g.*, Compliance Filing at 2-3; *id.*, Exh. D at 7-8, App. C. NERC has determined that only 27 DP/LSEs would be eligible for complete deregistration. Exh. D at 7-8. Many other DP/LSEs, while falling below the revised 75 MW threshold, are *not* eligible for deactivation as DPs because they meet other DP

registration criteria.[8] *Id*. at 7. These DP registration criteria were strengthened by NERC's RBR proposal, which added to the existing list of criteria for registration of entities, regardless of size, that are responsible for providing services related to Nuclear Plant Interface Requirements, or have field switching personnel identified as performing unique tasks associated with the Transmission Operator's restoration plan that are outside of their normal tasks. The non-size-based DP registration criteria are doing their job of ensuring that any DP that could have an impact on BES reliability remains on the Compliance Registry. The additional 27 DP/LSEs that would eligible for deregistration upon elimination of LSE registrations are thus the most insignificant of this group of small DPs.

In addition, NERC breaks down the 41 total LSEs that would be deregistered on a BA basis. *Id*. at 8; *see also* Compliance Filing at 2-3. They represent no more than 3.39 percent of the peak load in any BA Area, and in most cases serve a significantly lower percentage.

NERC has fully complied with the Commission's directive and shown that the few LSEs that will be deregistered under its proposal are widely scattered and do not represent a significant share of the load of any BA. This data makes a compelling case that any residual risk to the BES does not warrant imposing continued compliance obligations on all LSEs.

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[8] *See supra* note 6.

2. Load growth will not result in deregistered LSEs' data becoming significant over time

The Commission expressed concern that "[i]n areas of significant load-growth, the cumulative effect of deregistered entities not having to provide accurate load data projections as required by certain MOD Reliability Standards could have an increasing effect on reliability over time as load increases, *e.g.*, as a result of demand and energy forecast data omitted or not accurately depicted in power system models and assessments." RBR Order, P 40.

NERC's analysis of predicted load growth in the regions where potentially deregistered LSEs are located demonstrates that deregistration of these LSEs will not result in a data gap in the future. These entities make up a very small percentage of load on a nationwide, regional, and BA basis.[9] Compliance Filing, Exh. D at 8, 13; *see also* Compliance Filing at 16. Their load would have to grow significantly faster than the overall load of the assessment areas where they are located for their share of load to come close to meriting a second glance. Moreover, much of the remaining risk is cabined by the 75 MW DP registration threshold: the 27 DP/LSEs currently eligible for deregistration because they fall below the 75 MW DP threshold would, if they experience significant load growth that results in them meeting that threshold, be registered as DPs. The slim possibility that a deregistered LSE whose load is not the responsibility of another registered entity with data reporting obligations will grow at a dramatically faster rate than its surrounding load; that the entity will not itself then be eligible for registration as a DP; and that entities that need the load data will not be able to obtain it under the *pro*

[9] *See also* Joint Commenters' demonstration on a nationwide level that the load served by DPs under 75 MW is insignificant in comparison to total load. Initial Joint Comments, Att. A.

forma tariff or contract provisions, is not significant enough to warrant imposing costs on all involved—NERC, its Regional Entities and registered entities—by registering LSEs nationwide. As found in the RBR Order, directing efforts towards activities with a greater potential impact on BES reliability helps to ensure that the costs of reliability are proportionate to the benefits. P 16.

Thus, NERC's Compliance Filing demonstrates that the entities that are currently provided data under the MOD standards will continue to be able to obtain the data they need, as further discussed in Sections B and C below. NERC's filing persuasively shows that even assuming that the enumerated additional sources of information were not in place, the gap resulting from deregistration of some LSEs would have minimal impact on BES reliability, and that this conclusion is unlikely to be affected by load growth.

B. Sufficient load data will continue to be available to entities with a reliability need for it

The RBR Order raised questions as to which entities will continue to provide load information, and whether all BAs and PAs "will have the ability to reasonably estimate demand and energy forecast data for areas where the load-serving entity is deregistered," assuming that the LSE registration category is eliminated. P 40.

In Exhibit D, Appendix E of its Compliance Filing, NERC provides extensive information on contractual obligations for each potentially deregistered LSE, pursuant to which each such LSE will continue to provide load data.[10] In addition, the *pro forma* Open Access Transmission Tariff ("*pro forma* tariff" or "OATT") ensures the ability of

[10] *See also* Compliance Filing at 13-16.

Transmission Providers[11] to obtain the data they need from their network customers, and most LSEs are network customers or network load of network customers.[12] As explained in Section C below, under the *pro forma* tariff, LSEs will continue to provide their data to their Transmission Provider. Given the significant protections available in the *pro forma* tariff and contracts, it is not surprising that only one of the nine affected BAs (Duke Energy Carolina) expresses any concern about its ability to obtain data following elimination of the LSE function.[13] Compliance Filing, Exh. D at 6, 8. Thus, NERC's Compliance Filing shows that if LSE registrations were eliminated, load-serving entities would remain obliged to provide load data under tariffs and other agreements.

In addition, NERC's Compliance Filing demonstrates that if LSEs are deactivated, most of these entities will continue to provide the same data as part of their compliance obligations for their other registrations. The reliability standards under which load data is provided apply to many functions in addition to LSEs, and registration for those other functions overlaps to a significant extent with LSE registration. *See* Section C below; *see also* Compliance Filing at 6-7; *id.*, Exh. D, Apps. C, D.

NERC's Compliance Filing demonstrates that deregistered LSEs' load data will continue to be provided to entities that need it pursuant to reliability standards and other

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[11] The *pro forma* tariff defines the Transmission Provider as "[t]he public utility (or its Designated Agent) that owns, controls, or operates facilities used for the transmission of electric energy in interstate commerce and provides transmission service under the Tariff." § I.1.50. The *pro forma* tariff is the model for tariffs adopted by non-jurisdictional transmission providers to meet reciprocity requirements. *See* note 17 below.

[12] *See infra* note 15 for discussion of *pro forma* tariff obligations on Point-to-Point customers.

[13] And NERC's Compliance Filing shows that even as to Duke, there should be no data deficiency. Duke's agreements with the affected LSEs include load data sharing and forecasting obligations. *See* Exh. D at 6; *see also* Exh. D, App. E at 6-15.

obligations, thereby significantly mitigating any BES reliability risk from eliminating LSE registration.

C. Other LSE activities will continue

The Commission noted that NERC's Petition had not provided specific information regarding alternative sources of authority that will ensure the continuation of "load-serving entity reliability tasks." RBR Order, P 38. NERC's Compliance Filing provides abundant specific information to address the Commission's more general concern.

As discussed in Section B above, deactivation of LSEs will not eliminate the obligations of most of these entities to perform the same reliability activities pursuant to their other registrations. In Exhibit D, Appendix D of its Compliance Filing, NERC identifies the functions under which most LSEs will remain on the Compliance Registry and continue to perform most LSE tasks pursuant to reliability standards. For example, the vast majority of currently-registered LSEs will remain subject to the same MOD-031-1 requirements to provide the same data to the same entities; the remainder are not significant from a reliability perspective on a nationwide or Regional Entity basis. *See also* Att. A at 6-8.

NERC also identifies tariff provisions and other agreements under which deregistered LSEs will continue to perform reliability tasks. *See* Compliance Filing Exh. D, App. E.[14] As explained above, most LSEs are network customers or network load of network customers. The *pro forma* tariff allows all Transmission Providers to get the

[14] *See also* Compliance Filing at 13-16.

data they need from their network customers[15] and to direct load curtailments when needed to ensure system reliability;[16] and the Network Operating Agreement ("NOA") provided for by the *pro forma* tariff covers operations, information sharing, and any other issue that might affect the provision of network service. The *pro forma* tariff, combined with all of the specific agreements detailed by NERC, shows that any residual reliability risk from eliminating LSE registration is *de minimis*.[17]

Specifically, with respect to information sharing, OATT Section 31.6 requires the Network Customer to provide the Transmission Provider with annual updates of its Network Load and Network Resource forecasts, as well as timely written notice of

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[15] Point-to-Point customers' transmission use is limited to their reservation. OATT §§ 13.7(c), 14.5. Further, all Point-to-Point use, even intra-BA use, must be scheduled per the *pro forma* tariff. OATT §§ 13.8, 14.6. The Transmission Provider is required to plan for Point-to-Point customers' firm reservations, including rollover rights if applicable. OATT § 2.2. *See* Preventing Undue Discrimination and Preference in Transmission Service, Order No. 890, 72 Fed. Reg. 12,266, 12,421, 12,424 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241, PP 1215, 1231-32 (2007), *order on reh'g and clarification*, Order No. 890-A, 73 Fed. Reg. 2984 (Jan. 16, 2008), FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 73 Fed. Reg. 39,092 (July 8, 2008), 123 FERC ¶ 61,299 (2008), *order on reh'g and clarification*, Order No. 890-C, 74 Fed. Reg. 12,540 (Mar. 25, 2009), 126 FERC ¶ 61,228 (2009), *order on clarification*, Order No. 890-D, 74 Fed. Reg. 61,511 (Nov. 25, 2009), 129 FERC ¶ 61,126 (2009).

[16] Curtailments of Point-to-Point service are subject to the *pro forma* tariff (§§ 13.6, 14.7) and the Transmission Loading Relief rules incorporated into Attachment J to the *pro forma* tariff.

[17] As described in the Initial Joint Comments at 8-9, while tariff obligations under Section 205 of the FPA, 16 U.S.C. § 824d, (or NAESB rules) are not a complete substitute for reliability compliance obligations under Section 215, 16 U.S.C. § 824*o*, the existence of non-Section 215 requirements is nevertheless relevant to assessment of the risk associated with eliminating a Section 215 obligation, and thus to whether the gains from imposing Section 215 obligations are worth the cost and burden on all involved.

FERC-jurisdictional entities are directly subject to FERC enforcement authority with regard to tariff and NAESB rules, which are incorporated by reference into Commission regulations. *See, e.g.*, Standards for Business Practices and Communication Protocols for Public Utilities, Order No. 676, 71 Fed. Reg. 26,199 (May 4, 2006), FERC Stats. & Regs. ¶ 31,216 (2006) (subsequent history omitted). Entities that are not generally directly subject to Commission jurisdiction must abide by tariff and NAESB rules when they take service from a jurisdictional Transmission Provider, or these rules come into play through reciprocity. Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities, Order No. 1000, 76 Fed. Reg. 49,842, 49,958, 49,960 (Aug. 11, 2011), FERC Stats. & Regs. ¶ 31,323, PP 799, 815 (2011), *reh'g denied*, Order No. 1000-A, 77 Fed. Reg. 32,184, 32,300 (May 31, 2012), 139 FERC ¶ 61,132, PP 771-773 (2012), *order on reh'g*, Order No. 1000-B, 77 Fed. Reg. 64,890 (Oct. 24, 2012), 141 FERC ¶ 61,044 (2012), *review denied sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014) (per curiam), *reh'g en banc denied*, No. 12-1232 (D.C. Cir. Oct. 17, 2014).

material changes in any other information provided in its Application relating any aspect of its facilities or operations affecting the Transmission Provider's ability to provide reliable service. This provision allows the entities that own and operate transmission to obtain information needed for long-term planning.

With respect to emergency operations and load shedding, OATT Section 33.1 states:

> Prior to the Service Commencement Date, the Transmission Provider and the Network Customer shall establish Load Shedding and Curtailment procedures pursuant to the Network Operating Agreement with the objective of responding to contingencies on the Transmission System and on systems directly and indirectly interconnected with Transmission Provider's Transmission System. The Parties will implement such programs during any period when the Transmission Provider determines that a system contingency exists and such procedures are necessary to alleviate such contingency.

In addition, Section 33.6 states that when the Transmission Provider determines that it is necessary for the Transmission Provider and Network Customer to shed load, the parties shall do so in accordance with the NOA. Finally, Section 33.7 gives the Transmission Provider the authority to curtail network transmission service whenever needed to protect reliability.

The *pro forma* tariff's requirements for the contents of the NOA ensure that LSEs will remain obligated to perform reliability tasks. The NOA is to:

> provide for the Parties to (i) *operate* and maintain *equipment necessary for integrating the Network Customer within the Transmission Provider's Transmission System* (including, but not limited to, remote terminal units, metering, communications equipment and relaying equipment), (ii) *transfer data between the Transmission Provider and the Network Customer* (*including, but not*

> *limited to*, heat rates and operational characteristics of Network Resources, generation schedules for units outside the Transmission Provider's Transmission System, interchange schedules, unit outputs for redispatch required under Section 33, voltage schedules, loss factors and *other real time data*), (iii) use software programs required for data links and constraint dispatching, (iv) *exchange data on forecasted loads* and resources necessary for long-term planning, and (v) address *any other technical and operational considerations required for implementation of Part III of the Tariff, including scheduling protocols*.

OATT § 35.2 (emphasis added). These provisions are quite broad. NOAs are not standardized; they are developed by individual Transmission Providers and filed for Commission review. Thus, Transmission Providers have a great deal of discretion in developing an NOA that meets their data needs. The Network Operating Committee that operates under the NOA supplements that capability; it is expressly charged with "coordinat[ing] operating criteria and other technical considerations required for implementation of Network Integration Transmission Service under Part III of [the] Tariff." OATT § 1.25; *see also* OATT § 35.3.[18]

On the other hand, NERC's Compliance Filing, Appendix D, identifies a number of LSE requirements as not necessary from a reliability perspective; such requirements should be retired based on Paragraph 81 considerations.[19] Both the Independent Experts Review Panel and the Standard Drafting Team for proposed EOP-011-1, for instance, determined that EOP-002-3.1, Requirement R9, has no reliability benefit and accordingly should be retired, and not carried into EOP-011-1. Compliance Filing, Exh. D, App. D at

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[18] *See* Compliance Filing, Exh. D, App. E, for some examples of NOAs that provide the authority at issue.

[19] *See, e.g.*, *N. Am. Elec. Reliability Corp.*, 138 FERC ¶ 61,193, P 81, *on reh'g*, 139 FERC ¶ 61,168 (2012).

1. Similarly, FAC-002-2 has no reliability benefit as applied to LSEs because the LSE function does not own facilities. *Id.* at 4.

Thus, NERC has demonstrated that those LSE tasks that have a reliability benefit will continue to be performed by most of these same entities pursuant to reliability standards with which they must comply due to their other registrations, or as a result of tariff or contract obligations. As a result, any BES reliability risk due to deactivating LSEs is diminished to the point that it cannot justify continued LSE registrations.

D. NERC has coordinated timely transfer of commercial-related practices to NAESB

The Commission directed NERC to address its coordination with NAESB to timely transfer "commercial-related practices affected by the proposed elimination of the load-serving entity function." RBR Order, P 42. NERC's Compliance Filing does so.

As explained in its Compliance Filing, NERC determined that no reliability gap results from elimination of these requirements, and referred all of the affected standards to NAESB for consideration of whether a business practice is needed for proper functioning of wholesale markets. Exh. D at 11; *see also* Compliance Filing at 9-10. As NERC indicates, NAESB has "identified INT-011-1 as a candidate for a commercial process standard." Compliance Filing, Exh. D at 11. While the Commission is "not persuaded by NERC that such transactions are *currently* fully covered by NAESB standards that pertain to 'e-tagging,'" RBR Order, P 42 (emphasis added), NAESB's process is underway, and given that "this provision is commercial in nature and has minimal reliability implications," *id*., any reliability risk associated with effective retirement of INT-011-1 is vanishingly small.

Should the Commission have concerns about other commercial-related requirements, NAESB will of course address such concerns as well.[20] However, the potential for the development of additional commercial business practices does not support continued registration of LSEs for compliance with reliability standards under Section 215, which focuses on the reliable operation of the bulk-power system.[21]

E. Removal of the LSE function from individual reliability standards is justified

The RBR Order states that "NERC is responsible to explain in the context of a particular modified Reliability Standard whether removal of the load-serving entity would result in a reliability gap and, if so, how the gap is addressed." P 43. The Commission has indicated in recent NOPRs that it would look to the compliance filing in the instant proceeding in evaluating the proposed elimination of the LSE from those standards.[22] NERC has justified removal of the LSE from individual standards both in its

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[20] For example, in Order No. 890, the Commission directed public utilities to work through NAESB (as well as NERC) to develop business practices addressing ATC calculations. Order No. 890, P 196.

[21] The Commission appears to recognize as much with respect to removal of the IA and PSE functions. The RBR Order states, in its discussion of these functions, "We do agree that NERC must coordinate with NAESB to ensure a proper 'hand off' of commercial-related provisions, and address this in more detail later in the order," P 27, but nevertheless approves removal of both functions.

[22] Revisions to Emergency Operations Reliability Standards; Revisions to Undervoltage Load Shedding Reliability Standards; Revisions to the Definition of "Remedial Action Scheme" and Related Reliability Standards, 80 Fed. Reg. 36,293, 36,297 (proposed June 24, 2015), 151 FERC ¶ 61,230, P 24 n.36 (proposed 2015) (to be codified at 18 C.F.R. pt. 40) ("EOP/UVLS NOPR"); Transmission Operations Reliability Standards and Interconnection Reliability Operations and Coordination Reliability Standards, 80 Fed. Reg. 36,280, 36,289 (proposed June 24, 2015), 151 FERC ¶ 61,236, P 66 (proposed 2015) (to be codified at 18 C.F.R. pt. 40) ("TOP/IRO NOPR").

Compliance Filing[23] and in petitions for Commission approval of the relevant reliability standards.[24]

NERC's assessment is further supported by Joint Commenters' summary of NERC's findings in the various pending standard development projects, initially filed with our Initial Joint Comments,[25] as updated in Attachment A hereto.[26] As highlighted by this updated summary, NERC has shown that the LSE function can be removed from the Registry Criteria without an adverse impact on reliability. NERC has furthermore demonstrated, here and in individual standard development projects and filings to the Commission, that the LSE function is not needed in any individual reliability standard.

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[23] Compliance Filing at 7-13; *id.*, Exh. D, App. D.

[24] *See, e.g.*, Supplemental Information to Petition of the NERC for Approval of Proposed Transmission Operations and Interconnection Reliability Operations and Coordination Reliability Standards 8-10 (May 12, 2015), eLibrary No. 20150512-5056; Petition of the NERC for Approval of Proposed Reliability Standard EOP-011-1—Emergency Operations, Exh. D at 33-34 (Dec. 29, 2014), eLibrary No. 20141229-5107.

[25] Initial Joint Comments, Att. B.

[26] The information in Attachment A is relevant to the EOP/UVLS and TOP/IRO NOPRs as well.

CONCLUSION

For the reasons set forth above and in NERC's Compliance Filing, the Commission should promptly approve NERC's proposed elimination of the LSE function.

Respectfully submitted,

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ATTACHMENT A

Attachment A

SUPPLEMENTAL TECHNICAL ANALYSIS OF ELIMINATION OF LSE FUNCTION

NERC's Technical Report[1] (at 10-13, 22-51) and Compliance Filing (at 6-13, Exh. D, and Apps. C and D) demonstrate, with respect to each standard and requirement applicable to LSEs, that no material risk to BES reliability results from the proposed elimination of LSE as a function requiring registration, and the resulting deactivation of LSEs. Below Joint Commenters highlight and provide additional context with respect to certain reliability standards affected by NERC's proposed elimination of the LSE function.[2]

1. EOP-002-3.1

To meet its purpose of ensuring Reliability Coordinators ("RCs") and Balancing Authorities ("BAs") are prepared for capacity and energy emergencies, EOP-002-3.1 requires BAs and RCs to take various steps to alleviate capacity and energy emergencies.

As noted in the Technical Report (at 24) and Compliance Filing (at 11), proposed EOP-011-1, which replaces EOP-002-3.1 (among others), does not apply to LSEs. EOP-011-1 has been approved by the NERC ballot body and the NERC Board of Trustees,[3] and was filed with the Commission for approval on

[1] Petition of the NERC for Approval of Risk-Based Registration Initiative Rules of Procedure Revisions, Exh. C (Dec. 11, 2014), eLibrary No. 20141211-5214 ("Technical Report").

[2] While the most recent versions of several of the standards discussed below (unlike the other LSE standards addressed in the Compliance Filing) are not yet final because they are currently going through the Standards Development Process or pending Commission approval, in each instance the proposed elimination of LSE applicability is justified based on risk.

[3] Project 2009-03 Emergency Operations, http://www.nerc.com/pa/Stand/Pages/Project-2009-03-Emergency-Operations.aspx (last visited Aug. 14, 2015).

December 29, 2014.[4] In a Notice of Proposed Rulemaking issued June 18, 2015, the Commission noted "that NERC is required to make a compliance filing in July 2015 in Docket No. RR15-4-000. The Commission's decision on that filing will guide our action on this question in this proceeding." EOP/UVLS NOPR, P 24 n.36.

Sub-requirement R9.1, the only EOP-002-3.1 requirement applicable to LSEs, states that when a Transmission Service Provider ("TSP") expects to elevate the transmission service priority of an Interchange Transaction from Priority 6 to Priority 7, "[t]he deficient Load-Serving Entity shall request its Reliability Coordinator to initiate an Energy Emergency Alert in accordance with Attachment 1-EOP-002 'Energy Emergency Alerts.'" The drafting team explains (emphasis in original):

> **LSEs have no Real-time reliability functionality with respect to [Energy Emergency Alerts].** Requirement R9 was in place to allow for a Transmission Service Provider to change the priority of a service request, informing the Reliability Coordinator so that the service would not be curtailed by a [Transmission Loading Relief]; and since the Tagging Specs did not allow profiles to be changed, this was the only method to accomplish it. Under NAESB WEQ Etag Spec v1811 R3.6.1.3, this has been modified and now the [Transmission Service Provider] has the ability to change the Transmission priority which, in turn, is reflected in the [Interchange Distribution Calculator]. This technology change allows for the deletion of Requirement R9 in its entirety. Requirement R9 meets … Criterion A of Paragraph 81 and should be retired."

[4] Petition of NERC for Approval of Proposed Reliability Standard EOP-011-1—Emergency Operations (Dec. 29, 2014), eLibrary No. 20141229-5107 ("NERC EOP Petition").

EOP-011-1 standard development project mapping document.[5] The drafting team also proposes that Requirement R9 of EOP-002-3.1 be "[r]etired per P81 – this is addressed in NAESB tagging specification." *Id.* at 22-23. *See also* Independent Experts Review Panel ("IERP") Report at 27, recommending that Requirement R9 be retired based on P 81 considerations, because it addresses "a market (tariff) issue."[6] The Commission has cited the IERP report with approval.[7]

As the Standard Drafting Team's explanation makes clear, there is no reliability benefit to retaining EOP-002-3.1's Requirement R9, and thus no reliability risk from eliminating the LSE obligation to comply with it.

The EOP/UVLS NOPR questions whether there is a gap pertaining to other LSE responsibilities mentioned in the Functional Model, such as communicating requests for voluntary load curtailment and coordinating the use of controllable loads with the BA, *see* EOP/UVLS NOPR, P 24 n.36. However, the Functional Model is simply a guidance document. *See, e.g.*, Order No. 693, P 127.[8] Such responsibilities are not part of any currently-enforceable reliability standard applicable to LSEs,[9] nor has the Commission directed NERC to develop such a standard. Accordingly, no additional risk results from elimination of the LSE function with respect to those Functional Model responsibilities.

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[5] NERC EOP Petition, Exh. D at 33-34.

[6] Standards Independent Experts Review Project (June 2013), http://www.nerc.com/pa/Stand/Standard%20Development%20Plan/Standards_Independent_Experts_Review_Project_Report-SOTC_and_Board.pdf.

[7] *N. Am. Elec. Reliability Corp.*, 149 FERC ¶ 61,141, P 60 (2014).

[8] Mandatory Reliability Standards for the Bulk-Power System, Order No. 693, 72 Fed. Reg. 16,416 (Apr. 4, 2007), FERC Stats. & Regs. ¶ 31,242 (2007), *effective date stayed*, 72 Fed. Reg. 31,452 (June 7, 2007), *aff'd*, Order No. 693-A, 72 Fed. Reg. 40,717 (July 25, 2007), 120 FERC ¶ 61,053 (2007).

[9] *See also* discussion of Operating Instructions in Section 4(a) below.

2. INT-011-1.1

In Order No. 693, issued in 2007, the Commission expressed a concern that if intra-BA transfers are not included in one of the INT reliability standards, they might not be appropriately curtailed in accordance with their priorities under the Order No. 888 tariff; and accordingly directed that NERC include such a requirement. Order No. 693, PP 816-17. INT-011-1.1 requires LSEs using Point-to-Point Transmission Service for intra-BA transfers to "submit a Request for Interchange unless the information about intra-Balancing Authority transfers is included in congestion management procedure(s) via an alternate method."

While INT-011-1 "will effectively be retired upon approval of the RBR initiative" (Technical Report at 51), no reliability risk results from this retirement. Indeed, the RBR Order (P 42) stated that the Commission is "persuaded by NERC that this provision [INT-011-1] is commercial in nature and has minimal reliability implications," directing NERC in its Compliance Filing to "its coordination with NAESB to address the transition of commercial-related obligations necessitated by the proposed retirement of the load-serving entity function." *Id*.

NERC has done so: In response to the RBR Order, NERC conducted additional coordination with NAESB with respect to INT-011-1 and other commercial-related reliability standards. As NERC explains,

> [t]he WEQ Executive Committee Chair and Vice Chair have agreed to submit a request to NAESB to ensure that this commercially-related practice under INT-011-1 is considered for standards development through the NAESB process. NAESB noted that the NAESB WEQ-004 Business Practice Standards contain requirements proscribing [sic] how

> [Requests for Interchange ("RFI")] should be submitted and that RFIs for intra-BA transactions are to be processed in the same manner as other RFIs, but it does not require the submittal of RFIs for intra-BA transactions. The NAESB Electronic Tagging (e-Tag) Functional Specification describes the functional requirements and technical specifications for the implementation of e-Tagging and is built on the NERC Reliability Standards and NAESB WEQ Business Practice Standards, but it does not specifically require the submittal of RFIs for intra-BA transactions.
>
> If NAESB pursues development of this standard, it will be subject to a vote at the regular WEQ Executive Committee in August 2015 and, if approved, filed with the Commission in the 3rd quarter of 2015.

Compliance Filing, Exh. D at 12-13; *see also* Compliance Filing at 10.[10]

A risk-based approach to reliability standards does not support retaining LSE registrations to ensure compliance with INT-011-1. The goal of the requirement—ensuring that intra-BA transactions are curtailed in accordance with their priorities under the *pro forma* tariff—is a commercial task, not a reliability-related requirement. Seven years of experience have shown that the Commission can rely on NAESB to develop standards governing issues that are market-related and therefore not appropriate subjects for NERC reliability standards.

[10] TSPs in the Eastern Interconnection and Western Interconnection already have the ability to require their transmission customers to tag intra-BA transfers where appropriate, under the OATT and transmission service agreements, to the extent not otherwise addressed through RTO market rules. *See, e.g.*, *pro forma* tariff, Att. B (Form Of Service Agreement For Non-Firm Point-To-Point Transmission Service) § 4.0 ("The Transmission Customer agrees to supply information the Transmission Provider deems reasonably necessary in accordance with Good Utility Practice in order for it to provide the requested service.").

3. MOD standards

a) MOD-004-1

MOD-004-1's purpose is to promote "the consistent and reliable calculation, verification, preservation, and use of Capacity Benefit Margin (CBM) to support analysis and system operations."

The Technical Report (at 28) and Compliance Filing (Exh. D, App. D at 5) both state that MOD-004-1 Requirement R3, which applies to LSEs, "can be retired based on other functions (DP, BA or TSP) that are responsible for acquiring extra capacity." More specifically, Requirement R4 of MOD-004-1 is identical to Requirement R3, except that it applies to the Resource Planner function rather than the LSE. Requirement R3 is thus duplicative and can be retired without risk to BES reliability. Furthermore, NERC has proposed to retire MOD-004-1 in its entirety, replacing it with MOD-001-2, which accomplishes the same goal with respect to all methods of calculating available transmission system capability, and which is *not* applicable to LSEs; the Commission has issued a Notice of Proposed Rulemaking in Docket No. RM14-7 proposing to approve MOD-001-2 and the retirement of MOD-004-1.[11] No entity filed comments opposing the Commission's proposed action.

b) MOD-031-1

MOD-031-1 imposes requirements on various functional entities with an objective of "provid[ing] authority for applicable entities to collect Demand, energy and related data to support reliability studies and assessments and to

[11] Modeling, Data, and Analysis Reliability Standards, 79 Fed. Reg. 36,269 (proposed June 26, 2014), 147 FERC ¶ 61,208 (proposed June 19, 2014), *corrected*, 79 Fed. Reg. 47,603 (Aug. 14, 2014), 148 FERC ¶ 61,106 (2014).

enumerate the responsibilities and obligations of requestors and respondents of that data."

Requirements R2 and R4 of MOD-031-1 apply to LSEs. As the Technical Report (at 34) and Compliance Filing (Exh. D at 4-5, App. D at 8-9) note, the necessary data can be provided by the BA and DP; those entities, as well as the RP and TP, are also subject to the data provision requirements of MOD-031-1 and are able to provide the same data as the LSE. The vast majority of LSEs will remain subject to MOD-031:

> 13 of 419 LSE entities will not be subject to compliance with [MOD-031-1] after removal of the LSE function, as they are not registered as one of the applicable functions of the Reliability Standard. These entities are equally dispersed among the REs as follows; five in Texas Reliability Entity (TRE), three in SERC Reliability Corporation (SERC), two in Midwest Reliability Organization (MRO), two in ReliabilityFirst (RF), and one each in Southwest Power Pool Regional Entity (SPP RE) and Northeast Power Coordinating Council (NPCC).

Compliance Filing, Exh. D at 4-5. As demonstrated in NERC's Compliance Filing, Exh. D at 7-8, the additional 41 currently-registered LSEs that would no longer be registered for *any* function are not individually or cumulatively significant on a national, Regional Entity, or BA Area basis. *See also* Joint Comments on Compliance Filing at 5-6. Any such gap would be immaterial in any case. Moreover, as NERC points out, "MOD-031 is applicable to both BAs and DPs, and either entity would have the required load data." Compliance Filing, Exh. D, App. D at 8. Any residual reliability risk involved in removing the LSE from MOD-031-1 applicability is thus insignificant and does not warrant continued LSE registration.

c) MOD-032-1

MOD-032-1 imposes requirements on a range of functional entities to achieve its purpose of "establish[ing] consistent modeling data requirements and reporting procedures for development of planning horizon cases necessary to support analysis of the reliability of the interconnected transmission system." Applicable entities (including the BA, RP, TO, and TSP, in addition to LSE) are required to provide "steady-state, dynamics, and short circuit modeling data" to their TP or PC upon request. The remaining applicable entities, particularly the TO and RP, possess and can provide any data that would have been provided by the LSE. The LSE can therefore be removed from MOD-032-1 applicability without risk to BES reliability.

4. TOP standards

a) TOP-001-1a

TOP-001-1a is intended to "ensure reliability entities have clear decision-making authority and capabilities to take appropriate actions or direct the actions of others to return the transmission system to normal conditions during an emergency."

TOP-001-2 has been filed with the Commission, but NERC subsequently filed a motion to defer action pending development of TOP-001-3, which was granted.[12] These comments therefore address TOP-001-3,[13] as version 2 is essentially moot.

[12] *Transmission Operations Reliability Standard*, 146 FERC ¶ 61,023 (2014).

[13] Project 2014-03 Revisions to TOP and IRO Standards, http://www.nerc.com/pa/Stand/Pages/Project-2014-03-Revisions-to-TOP-and-IRO-Standards.aspx (last visited Aug. 17, 2015).

Proposed TOP-001-3,[14] which applies to the BA, DP, GOP, and TOP, but not LSE, has been approved by stakeholders[15] and the NERC Board[16] and was submitted to the Commission on March 18, 2015,[17] with supplemental support filed on May 12, 2015.[18] On June 18, 2015, the Commission issued a NOPR proposing to approve TOP-001-3. TOP/IRO NOPR, P 40.

The Commission also, however, "notes that the issuance and compliance of operating instructions under proposed Reliability Standard TOP-001-3 is not limited to the real-time operations time horizon only," P 64, and states that "if a transmission operator or balancing authority would issue an operating instruction to a load-serving entity such as to carry out interruptible load curtailments, it is not clear what entity would respond to this operating instruction if the load-serving entity is removed from [TOP-001-3 applicability]," P 65. The Commission states that its decision on the compliance filing in the instant proceeding will guide its action on the TOP/IRO NOPR. P 66.

As NERC has demonstrated, it is appropriate to omit the LSE function from TOP-001-3 applicability. TOP-001-3 requires applicable entities (BA, DP,

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[14] Standard TOP-001-3 Transmission Operations (Dec. 2014), http://www.nerc.com/pa/Stand/Prjct201403RvsnstoTOPandIROStndrds/2014_03_fourth_posting_top_001_3_20141122_clean_qr.pdf; purpose is "[t]o prevent instability, uncontrolled separation, or Cascading outages that adversely impact the reliability of the Interconnection by ensuring prompt action to prevent or mitigate such occurrences."

[15] Standards Announcement, Project 2014-03 Revisions to TOP/IRO Reliability Standards TOP-001-3, http://www.nerc.com/pa/Stand/Prjct201403RvsnstoTOPandIROStndrds/2014-03_TOP-001-3_AB_NBP_Results_Announce_01082015.pdf.

[16] Approved February 12, 2015. Petition of NERC for Approval of Proposed Transmission Operations and Interconnection Reliability Operations and Coordination Reliability Standards 10 (Mar. 18, 2015), eLibrary No. 20150318-5202 ("NERC TOP/IRO Petition").

[17] NERC TOP/IRO Petition.

[18] Supplemental Information to Petition of NERC for Approval of Proposed Transmission Operations and Interconnection Reliability Operations and Coordination Reliability Standards (May 12, 2015), eLibrary No. 20150512-5056 ("NERC Supplemental Petition").

GOP, and TOP) to comply with BA and TOP "Operating Instructions." Although, as the Commission notes, compliance with Operating Instructions under TOP-001-3 is described in the standard as applying to the same-day time horizon, as well as real-time, LSEs (in their capacity as load-serving entities) lack the ability to comply with Operating Instructions in any time horizon. "Operating Instruction," as defined in the NERC Glossary, is an instruction to "change or preserve the state, status, output, or input of an Element of the Bulk Electric System or Facility of the Bulk Electric System." Because the LSE function does not own or operate equipment, the LSE function cannot curtail load or perform other corrective actions subject to reliability standards; in other words, it cannot take action to preserve the state, status, output, or input of an Element or Facility of the BES. Nor is a directive to "[c]ommunicate[] *requests* for *voluntary* load curtailment to end-use customers," as described in the Functional Model and NERC's Supplemental Petition (at 8, 9-10 (emphasis added)), consistent with the definition of "Operating Instruction"; such a request does not directly change or preserve the state, status, output, or input of a BES Element or Facility. Because such a directive does not fall within the ambit of TOP-001-3, making the standard applicable to the LSE function would not affect LSEs' obligations to request that end-use customers voluntarily curtail their load.[19]

[19] In any event, the DP, among others, is at least as well-placed as the LSE to issue requests for voluntary load curtailment.

In addition, as NERC points out in its Supplemental Petition in the TOP/IRO rulemaking, the focus from a reliability perspective is properly on the TOP's and BA's ability to direct *non*-voluntary load curtailment.[20]

In short, because LSEs cannot take the corrective actions required by reliability standards, and because the ability to issue an Operating Instruction to an LSE would at best be redundant with the authority to issue an Operating Instruction to an entity with the ability to directly carry out the Operating Instruction, an LSE obligation to comply with Operating Instructions is not necessary for reliable BES operation, and there is no reliability risk involved in removing LSEs from TOP-001-3 applicability.

b) TOP-002

TOP-002 includes requirements governing operations planning. TOP-002-3 has been filed with the Commission, but NERC subsequently filed a motion to defer action pending development of TOP-002-4, which was granted.[21] These comments therefore address the currently effective version 2.1b and proposed version 4. Requirements R3 and R18 of TOP-002-2.1b apply to the LSE function. As stated in the Technical Report (at 50), proposed TOP-002-4 removes the LSE function from applicability. TOP-002-4[22] has been approved by stakeholders[23]

[20] NERC Supplemental Petition at 9-10.

[21] *Transmission Operations Reliability Standard*, 146 FERC ¶ 61,023.

[22] Standards TOP-002-4 Operations Planning (Oct. 2014), http://www.nerc.com/pa/Stand/Prjct201403RvsnstoTOPandIROStndrds/2014_03_third_posting_top_002_4_20141001_clean.pdf.

[23] Project 2014-03 TOP-002-4 Ballot Results, http://www.nerc.com/pa/Stand/Prjct201403RvsnstoTOPandIROStndrds/Project_2014-03_TOP-002-4_Final_Ballot_Results_10292014.PDF.

and the NERC Board of Trustees,[24] and was filed with the Commission on March 18, 2015,[25] with supplemental support filed on May 12, 2015.[26] On June 18, 2015, the Commission issued a NOPR proposing to approve TOP-002-4, without expressing any concern about the proposed standard's inapplicability to LSEs. TOP/IRO NOPR, P 40 . The proposed revised standard applies only to the BA and TOP functions.

(1) Requirement R3

Requirement R3 of TOP-002-2.1b requires that:

> Each Load Serving Entity and Generator Operator shall coordinate (where confidentiality agreements allow) its current-day, next-day, and seasonal operations with its Host Balancing Authority and Transmission Service Provider. Each Balancing Authority and Transmission Service Provider shall coordinate its current-day, next-day, and seasonal operations with its Transmission Operator.

According to the Standard Drafting Team's mapping document for the development of proposed TOP-002-4 discussing how the reliability goals of Requirement R3 of TOP-002-2.1b will be met in proposed version 4 and other standards,[27]

> The Transmission Operator and Balancing Authority will receive the necessary data in proposed TOP-003-3, Requirement R5. The Transmission Service Provider provisions are covered in approved MOD-001-1a, Requirement

[24] Approved November 13, 2014. NERC TOP/IRO Petition at 10.

[25] NERC TOP/IRO Petition.

[26] NERC Supplemental Petition.

[27] Project 2014-03 Revisions to TOP and IRO Reliability Standards, Mapping Document 35 (Aug. 2014), http://www.nerc.com/pa/Stand/Prjct201403RvsnstoTOPandIROStndrds/2014_03_third_posting_mapping_document_20141010_clean.pdf.

> R1; approved MOD-030-2, Requirement R3; and approved MOD-001-1a, Requirement R2. The coordination of plans is in proposed IRO-017-1, Requirement R2.

None of the four standards referred to in the TOP-002-4 mapping document as destinations for portions of current Requirement R3 warrant continued LSE registration. Specifically, neither approved MOD-001-1a nor approved MOD-030-2 applies to LSEs. Proposed IRO-017-1 deals with coordination of planned outages among the BA, PC, RC, TOP, and TP, and thus is also not applicable to LSEs. Finally, although LSEs are included in the applicability of proposed TOP-003-3, they can be removed without risk to reliability, as discussed in Section 4.c below. Therefore, the proposed removal of LSEs from TOP-002-4 applicability does not pose a BES reliability risk.

(2) Requirement R18

Requirement R18 of TOP-002-2.1b provides:

> Neighboring Balancing Authorities, Transmission Operators, Generator Operators, Transmission Service Providers and Load Serving Entities shall use uniform line identifiers when referring to transmission facilities of an interconnected network.

As the mapping document for proposed TOP-002-4 explains,[28] Requirement R18

> is proposed for retirement as it adds no reliability benefit. Entities have existing processes that handle this issue. There has never been a documented case of the lack of uniform line identifiers contributing to a system reliability issue. This is an administrative

[28] Project 2014-03 Revisions to TOP and IRO Reliability Standards, Mapping Document 44-45 (Aug. 2014), http://www.nerc.com/pa/Stand/Prjct201403RvsnstoTOPandIROStndrds/2014_03_third_posting_mapping_document_20141010_clean.pdf.

> item as seen in the measure which simply requires a list of line identifiers. The true reliability issue is not the name of a line but what is happening to it, pointing out the difficulty in assigning compliance responsibility for such a requirement, as well as the near impossibility of coming up with truly unique identifiers on a nation-wide basis. The bottom line is that this situation is handled by the operators as part of their normal responsibilities and no one is aware of a switching error caused by confusion over line identifiers.

Because the requirement has been found to have no reliability benefit, there is no reliability risk associated with no longer requiring LSEs to comply with it.

c) TOP-003

TOP-003-1 requires coordination of scheduled outages. The purpose of proposed TOP-003-3 is "[t]o ensure that the Transmission Operator and Balancing Authority have data needed to fulfill their operational and planning responsibilities."

The currently-effective version of TOP-003, version 1, does not apply to the LSE function; the proposed deactivation of LSEs will therefore not affect the current applicability of TOP-003.

TOP-003-2 (which proposed to include LSEs in the applicability section) was filed with the Commission, but NERC subsequently filed a motion to defer action pending development of TOP-003-3, which was granted;[29] accordingly, these comments do not address TOP-003-2, which is essentially moot. TOP-003-

[29] *Transmission Operations Reliability Standard*, 146 FERC ¶ 61,023.

3[30] has been approved by the NERC ballot body[31] and Board of Trustees,[32] and was filed with the Commission on March 18, 2015,[33] with supplemental support filed on May 12, 2015.[34] On June 18, 2015, the Commission issued a NOPR proposing to approve TOP-003-3.

Requirement R5 of TOP-003-3 requires that "[e]ach Transmission Operator, Balancing Authority, Generator Owner, Generator Operator, *Load-Serving Entity*, Transmission Owner, and Distribution Provider receiving a data specification in Requirement R3 or R4 … satisfy the obligations of the documented specifications …." (emphasis added). As is the case with respect to MOD-031-1 and MOD-032-1, above, any data required for "the Transmission Operator's Operational Planning Analyses, Real-time monitoring, and Real-time Assessment" (Requirement R3) or "the Balancing Authority's analysis functions and Real-time monitoring" (Requirement R4) available from an LSE will also be independently available from the TOP, BA, TO, and/or DP. Removing LSEs from TOP-003-3 applicability therefore poses no reliability risk.

[30] Standard TOP-003-3 Operational Reliability Data, http://www.nerc.com/_layouts/PrintStandard.aspx?standardnumber=TOP-003-3&title=Operational_Reliability Data&jurisdiction=United%20States (requires provision of reliability data for planning purposes).

[31] Project 2014-03 TOP-003-3 Ballot Results, http://www.nerc.com/pa/Stand/Prjct201403RvsnstoTOPandIROStndrds/Project_2014-03_TOP-003-3_Final_Ballot_Results_10292014.PDF.

[32] NERC TOP/IRO Petition at 10.

[33] NERC TOP/IRO Petition.

[34] NERC Supplemental Petition.

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing document to be served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated on this 17th day of August, 2015.

/s/ *Rebecca J. Baldwin*
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