

138 FERC ¶ 61,072
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
and Cheryl A. LaFleur.

North American Electric Reliability Corporation

Docket No. RR12-3-000

ORDER APPROVING AMENDMENTS TO RULES OF PROCEDURE

(Issued January 31, 2012)

1. On November 29, 2011, the North American Electric Reliability Corporation (NERC) submitted a petition requesting approval of revisions to its Rules of Procedure. Pursuant to section 215(f) of the Federal Power Act (FPA) and section 39.10(a) of the Commission's regulations, we approve the proposed revisions.¹

I. Background

2. Section 215 of the FPA requires a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval. Section 215(f) also provides that the ERO shall file with the Commission any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. A proposed rule or proposed rule change shall take effect upon a finding by the Commission "after notice and opportunity for comment that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest and satisfies the requirements of subsection (c)."²

3. On July 20, 2006, the Commission certified NERC as the ERO under section 215(c) of the FPA.³ Further, the Commission approved NERC's Rules of

¹ 16 U.S.C. § 824o(f) (2006) and 18 C.F.R. § 39(a) (2011).

² 16 U.S.C. § 824o(f).

³ *North American Electric Reliability Corp.*, 116 FERC ¶ 61,062, *order on reh'g & compliance*, 117 FERC ¶ 61,126 (2006), *aff'd sub nom. Alcoa, Inc. v. FERC*, 564 F.3d 1342 (D.C. Cir. 2009).

Procedure and, in addition, identified needed revisions to the NERC Rules of Procedure. Through a series of subsequent filings, NERC refined its Rules of Procedure.⁴

II. Proposed Amendments to the NERC Rules of Procedure

4. In its November 29, 2011 petition, NERC proposes to revise Sections 100 through 1600 of the Rules of Procedure and Appendices 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D, 4E, 5A, 5B, 6 and 8, and incorporate a new Appendix 2, *Definitions Used in the Rules of Procedure*. The proposed revisions include: (1) placing all definitions of defined terms used anywhere in the Rules of Procedure in a single, readily-accessible location within Appendix 2; (2) capitalizing defined terms throughout the Rules of Procedure where such terms are used within their defined meanings; and (3) lowercasing currently undefined capitalized terms in the Rules of Procedure.

5. NERC states that it developed the revisions to comply with a prior Commission order in which the Commission invited NERC to submit a filing making consistent use of defined terms throughout the Rules of Procedure and Appendices.⁵

III. Notice and Responsive Pleadings

6. Notice of NERC's Filing was published in the *Federal Register*, 76 Fed. Reg. 76,393 (2011), with interventions and protests due on or before December 20, 2011. Edison Electric Institute and American Municipal Power, Inc. filed timely motions to intervene. The City of Santa Clara, California (Santa Clara) filed a timely motion to intervene and comments.

7. Santa Clara notes that NERC states that it received stakeholder comments suggesting the removal of definitions of terms in Appendix 2 that were taken from the NERC *Glossary of Terms Used in Reliability Standards* and instead defining those terms by a cross-reference to the *Glossary of Terms*.⁶ Santa Clara also notes that NERC explains in its petition that it did not adopt this approach because changes to the *Glossary of Terms* would automatically alter the definitions used in the Rules of Procedure, thus circumventing the Rules of Procedure revision process.

⁴ See, e.g., *North American Electric Reliability Corp.*, 118 FERC ¶ 61,030 (2007) and *North American Electric Reliability Corp.*, 137 FERC ¶ 61,130 (2011).

⁵ See Petition at 1 (citing *North American Electric Reliability Corporation*, 133 FERC ¶ 61,061 (2010)).

⁶ Santa Clara Comment at 4 (citing *North American Electric Reliability Corporation Petition* at 25-26).

8. Santa Clara asserts that, to minimize confusion, NERC should: (1) include a footnote in the Rules of Procedure explaining the definitions used therein are for purposes of the Rules of Procedure only; and (2) clearly identify terms in the Rules of Procedure differing in definition from terms in the *Glossary of Terms*.

IV. Discussion

A. Procedural Matters

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Substantive Matters

10. Pursuant to section 215(f) of the FPA and section 39.10(a) of the Commission's regulations, we approve the proposed revisions to the NERC Rules of Procedure. We agree with NERC that the revisions do not substantively change any original definitions in the Rules of Procedure; moreover, the Rules of Procedure remains procedurally and substantively the same. In addition, the creation of Appendix 2 offers a central, readily-accessible document containing all defined terms as used within the Rules of Procedure.

11. In regard to Santa Clara's comments, the Commission does not believe that the requested revisions are necessary because Appendix 2 in the Rules of Procedure includes a sentence explaining that the definitions set forth apply only to the Rules of Procedure. Further, NERC identifies terms in the Rules of Procedure as derived from the *Glossary of Terms* with double asterisks. Thus, we believe the notations as proposed in Appendix 2 adequately identify that the terms therein are for use in the Rules of Procedure only, without the need for additional context. The approach taken by NERC sufficiently maintains consistency in the use of defined terms throughout the Rules of Procedure while preventing changes in the *Glossary of Terms* from automatically altering the definitions used in the Rules of Procedure outside of the revision process.

12. Accordingly, we approve NERC's revisions to the Rules of Procedure, as proposed, effective as of the date of this order.

The Commission orders:

The Commission hereby approves the revisions to NERC's Rules of Procedure, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.