

136 FERC ¶ 61,047  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Nebraska Public Power District Docket No. RR11-1-000

Southwest Power Pool Regional Entity Docket No. RR11-1-001

ORDER DENYING REQUESTS TO TRANSFER COMPLIANCE REGISTRATIONS

(Issued July 21, 2011)

1. On March 18, 2011, Nebraska Public Power District (NPPD) filed a petition for review of a decision by the North American Electric Reliability Corporation (NERC) denying a request to transfer the compliance registrations of NPPD and several other entities located within Nebraska from Midwest Reliability Organization (MRO) to Southwest Power Pool Regional Entity (SPP RE).<sup>1</sup> On March 31, 2011, SPP RE also filed a petition for review of the same NERC decision and a request that the Commission direct NERC to submit revised delegation agreements reflecting the requested transfers. We address both petitions in this order.<sup>2</sup> As discussed below, based on the facts presented, the Commission denies NPPD's and SPP RE's requests to permit transfer of the Nebraska Entities' compliance registrations from MRO to SPP RE.

---

<sup>1</sup> The original entities that requested transfer were Nebraska Public Power District (NPPD), City of Grand Island, Nebraska (Grand Island), City of Hastings, Nebraska (Hastings), and Omaha Public Power District (Omaha Public Power).

<sup>2</sup> SPP RE's petition appears to cover NPPD, Grand Island, and Hastings (collectively, the "Nebraska Entities"). Specifically, SPP RE states in its petition that it is "informed that NPPD, Grand Island, and Hastings . . . continue to seek to transfer their registrations, and is aware that NPPD filed its own petition with the Commission on March 18, 2011, in Docket No. RR11-1-000 seeking review of NERC's denial of the transfer requests." *See* SPP Petition at 1.

## I. Background

2. Section 215(e)(4)(C) of the Federal Power Act (FPA) authorizes the Commission to issue regulations authorizing the ERO to enter into an agreement to delegate authority to Regional Entities if the agreement promotes effective and efficient administration of Bulk-Power System reliability.<sup>3</sup> Section 215(e)(4)(C) of the FPA and the Commission's regulations also provide that the Commission may modify such delegations.<sup>4</sup> In Order No. 672, the Commission stated: “[a]ny change in the size, scope or configuration of a Regional Entity would constitute an amendment to the delegation agreement, and any amendment would be subject to review by the ERO and approval by the Commission.”<sup>5</sup> In evaluating whether to authorize the amendment of a delegation agreement, the Commission determines whether a transfer request “promotes effective and efficient administration of the Bulk-Power System.”<sup>6</sup> The Commission will also evaluate whether a particular request constitutes “effective and efficient administration” in the context of the particular facts and circumstances of the specific request.<sup>7</sup>

3. In 2008, the Commission approved the Nebraska Entities' request to join the Southwest Power Pool Regional Transmission Organization (SPP RTO), and transfer operational control of their transmission facilities to SPP RTO.<sup>8</sup> In September 2008, the Nebraska Entities submitted requests to transfer their current registration for compliance and enforcement of NERC Reliability Standards for Bulk-Power System Reliability from the MRO to SPP RE. On December 17, 2008, SPP RE submitted to NERC a request to amend its delegation agreements to facilitate transfer of the Nebraska Entities to SPP RE.

4. Prior to NERC taking any action on the Nebraska Entities' request to transfer compliance entities, on June 9, 2010, as supplemented on June 17, 2010, NERC filed a petition, in part, seeking Commission approval of an amendment to the NERC Rules of

---

<sup>3</sup> 16 U.S.C. § 824o (2006).

<sup>4</sup> *Id.* § 824o(e)(4)(C); 18 C.F.R. § 39.8(c)(3) (2011).

<sup>5</sup> *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards*, Order No. 672, FERC Stats. & Regs. ¶ 31,204, at P 671, *order on reh'g*, Order No. 672-A, FERC Stats. & Regs. ¶ 31,212 (2006).

<sup>6</sup> 16 U.S.C. § 824o(e)(4)(C) (2006); 18 C.F.R. § 39.8(c)(3) (2011).

<sup>7</sup> Order No. 672, FERC Stats. & Regs. ¶ 31,204 at P 671.

<sup>8</sup> *See Southwest Power Pool, Inc.*, 125 FERC ¶ 61,239 (2008).

Procedure to add new section 1208, entitled “Process for Considering Registered Entity Requests to Transfer to Another Regional Entity.”<sup>9</sup>

5. On July 9, 2010, NPPD filed a motion to intervene and protest and, separately, a motion for clarification regarding the June 2010 NERC Petition. In the protest, NPPD asked the Commission to reject proposed section 1208 of the NERC Rules of Procedure and identify certain minimum requirements to be included in a revised transfer request process. In its motion for clarification, NPPD asked the Commission to confirm that section 1208, if approved, would not govern NPPD’s outstanding transfer request. The Commission approved section 1208 without modification and clarified that section 1208 is prospective and would not govern NPPD’s pending request to transfer Regional Entities.<sup>10</sup> In approving NERC’s new section 1208, the Commission noted that “a registered entity does not have a right to choose the Regional Entity that will be its Compliance Enforcement Authority.”<sup>11</sup> The Commission further explained that any change to the boundary of a Regional Entity should not merely benefit an individual registered entity.<sup>12</sup>

6. NERC’s first action on the Nebraska Entities’ transfer request was on June 29, 2010, when NERC requested that MRO and SPP RE submit reports evaluating the proposed transfer requests and stated that it would consider the transfer requests based on the reports. On August 16, 2010, SPP RE and MRO each filed reports. NERC posted the reports for public comment and NERC received comments both in support and opposition of the transfer. On February 17, 2011, the NERC Board held an open meeting in which SPP RE and NPPD orally presented their views in favor of the transfer. MRO and

---

<sup>9</sup> Section 1208 provides that in order to transfer between Regional Entities a registered entity must submit a transfer request to its current Regional Entity and to the Regional Entity it wishes to join. Section 1208 also provides that the affected Regional Entities must consult with each other as to whether they agree the request is appropriate based on the criteria in section 1208.2. If one or both of the Regional Entities find the transfer request appropriate, the request is submitted to NERC for approval. If the NERC Board approves the transfer, the Regional Entities’ amended delegation agreements are filed with the Commission for approval. The transfer is not effective unless it is approved by the Commission. NERC Rules of Procedure, section 1208, effective April 12, 2011.

<sup>10</sup> *North American Electric Reliability Corp.*, 133 FERC ¶ 61,061, at P 72-75 (2010) (October 2010 Order), *order denying reh’g*, 134 FERC ¶ 61,179 (2011).

<sup>11</sup> October 2010 Order, 133 FERC ¶ 61,061 at P 72.

<sup>12</sup> *Id.*

Lincoln Electric System (Lincoln Electric) orally presented their views in opposition to the transfer. At the meeting, a motion to approve the requested transfer failed on a vote of five affirmative votes and six negative votes, with one trustee abstaining. NERC did not issue a written decision on the matter. Rather, on March 3, 2011, NERC issued a one paragraph letter to SPP RE and MRO informing them of the NERC Board vote.

7. On March 18, 2011, NPPD filed its petition for review of the NERC Board decision and on March 31, 2011, SPP RE filed its petition for review of the same decision and a request that the Commission direct NERC to submit revised delegation agreements reflecting the requested transfers.

## **II. Petitions for Review of NERC Decision**

### **A. NPPD Petition**

8. NPPD petitions the Commission to review, *de novo*, and overturn NERC's denial of NPPD's request to transfer its compliance registration from MRO to SPP RE. NPPD states that because neither NERC nor any individual NERC trustee issued a written decision explaining its denial of the transfer request, the lack of explanation suggests that the denial is arbitrary and capricious. NPPD argues that allowing a transfer of the Nebraska Entities was an integral part of its decision to join SPP RTO, due to advantages of having a RTO coterminous with a Regional Entity. NPPD states that the Commission effectively confirmed this assessment when it approved its application to join SPP RTO.<sup>13</sup>

9. NPPD states that its "dual citizenship" as a member of SPP RTO and a registered entity within MRO has and will continue to cause reporting and compliance inefficiencies resulting in costly redundancies. According to NPPD, SPP RE, and MRO have different requirements in their real capability guidelines. Specifically, NPPD observes that "MRO and SPP RE have different testing guidelines for generating units, which create the possibility that different capability values would be reported for the same units."<sup>14</sup> Because of this, NPPD states that allowing the transfer will enhance the effective and efficient administration of the Bulk-Power System of not only SPP RTO, but also SPP RE.

---

<sup>13</sup> NPPD Petition at 5. NPPD notes that the SPP RTO's increased size and energy market participation after NPPD joined would "enhance the economic benefits of SPP." See *Southwest Power Pool, Inc.*, 125 FERC ¶ 61,239, at P 15 (2008).

<sup>14</sup> NPPD Petition at 5.

10. NPPD also states that MRO and SPP RE have a number of overlapping or inconsistent reporting and compliance requirements and define inter-regional transactions differently. NPPD argues that these variations create the potential for differing responses to NERC-initiated data requests about the same matters. Additionally, NPPD highlights that NERC launched a Regional Event Analysis effort under which each Regional Entity will report for all entities registered within it. NPPD believes that “[t]his creates a situation in which NPPD is subject to SPP [RE] protocols and SPP [Reliability Coordinator] directives, but would [] participat[e] and respond[] to an MRO events analysis with data and system responses obtained from SPP.”<sup>15</sup>

11. Last, NPPD states there is no valid reason to deny the transfer. It refutes MRO’s assertion that NPPD’s transfer request is an attempt to forum shop to evade more stringent compliance enforcement. NPPD states its decision to join SPP RTO was not driven by a desire to change Regional Entity, but by a desire to obtain the benefits of belonging to an RTO. Further, NPPD argues that denying its request contravenes policy of encouraging public power entities to join RTOs. NPPD reiterates that its decision to join SPP RTO substantially increased the scope of SPP RTO with corresponding reliability and other benefits that would not otherwise be realized. NPPD states that “its choice was premised, however, on the reasonable expectation that NPPD would become, as other SPP members are, an SPP RE registered entity and thus achieve the full efficiencies . . . associated with the transfer” into the RTO.<sup>16</sup>

## **B. SPP RE Petition**

12. On March 31, 2011, SPP RE petitioned the Commission for *de novo* review of NERC’s denial of the request for the Nebraska Entities to transfer their NERC compliance registration from MRO to SPP RE. Specifically, SPP RE requests that the Commission reverse NERC’s decision and approve the requested transfers and direct NERC to file revisions to MRO’s and SPP RE’s respective delegation agreements to effectuate the transfers. SPP RE argues the transfer of the Nebraska Entities’ compliance registration will increase administrative efficiency and provide other important synergies for the Nebraska Entities and SPP RE without any offsetting detriment to reliability or to the affected Regional Entities. SPP RE states that because NERC provided no basis for the NERC Board’s decision to deny the proposed transfer, there is no way for the Commission to determine whether the NERC Board took account of the Commission’s

---

<sup>15</sup> *Id.* at 6-7.

<sup>16</sup> *Id.* at 8.

recognition that there are “potential benefits of having the same boundaries for an RTO/[Independent System Operator (ISO)] and a Regional Entity.”<sup>17</sup>

13. SPP RE notes that it is fully capable and prepared to take on all compliance enforcement activities for the Nebraska Entities in a timely and seamless manner. SPP RE states that the Nebraska Entities together serve approximately “85 percent of the state of Nebraska” therefore, granting the transfers will not cause a dramatic division of the state relative to differing compliance obligations.<sup>18</sup> SPP RE contends the transfer of the Nebraska Entities’ compliance registration to SPP RE will have little to no impact on other Bulk-Power System owners, operators or users, as the requested transfer will only require the transferring entities to register in the SPP RE for the same functions they are currently registered for within MRO. SPP RE argues that the net cost for the Nebraska Entities’ changing Regional Entities is effectively zero and further notes that the Commission has stated that financial considerations will not be the determinative factor in evaluating transfers.

14. SPP RE states that, without the transfer, the Nebraska Entities cannot benefit from the efficiencies available to other SPP RTO members because the Nebraska Entities have to participate in both SPP RTO activities and MRO regional activities. SPP RE contends that the transfer would lift this burden. Finally, SPP RE argues that denying the transfer request would have a negative effect on the attractiveness of RTO membership to entities not currently participating in an RTO. Denying the request, SPP RE asserts, essentially penalizes the Nebraska Entities for their decision to join an RTO by requiring them to continue to report and participate in a Regional Entity in another region.

### **C. Notice and Responsive Pleadings**

15. Notice of NPPD’s Petition was published in the *Federal Register*, 76 Fed. Reg. 17,408 (2011), with interventions and protests due on or before April 18, 2011. Notice of SPP RE’s Petition was published in the *Federal Register*, 76 Fed. Reg. 19,988 (2011), with interventions and protests due on or before April 21, 2011. On April 8, 2011, MRO requested a three day extension of time to respond to the NPPD petition, to align with the date responses to the SPP RE Petition were due. On April 13, 2011, the Commission granted the extension of time up to and including April 21, 2011.

16. Timely motions to intervene and comments or protests were filed by Lincoln Electric, Western Area Power Administration (WAPA), Basin Electric Power

---

<sup>17</sup> SPP RE Petition at 5-6 (*quoting* Order No. 672, FERC Stats. & Regs. ¶ 31,204 at P 697).

<sup>18</sup> *Id.* at 9.

Cooperative, Inc. (Basin), and MRO. NPPD filed comments in support of the SPP RE Petition. Edison Electric Institute (EEI) filed a motion to intervene out-of-time. NERC filed a motion to intervene, request to consolidate dockets, and response to the petitions.

17. On May 6, 2011, SPP RE filed a motion for leave to answer and answer to protests, comments and request for consolidation, and NPPD filed an answer responding to the opposition to its petition. On May 10, 2011, SPP RTO filed a letter supporting both SPP RE's and NPPD's Petitions.<sup>19</sup> On May 13, 2011, MRO filed an answer to SPP RE's and NPPD's answers.

#### **D. Protests and Comments**

18. NERC explains that it decided that the views, data and arguments presented by SPP RE and NPPD did not provide a sufficient basis to approve the requested transfer. NERC states that the SPP RE and NPPD arguments demonstrate only benefits to an individual registered entity. In support of its position, NERC provides the record from the proceedings before NERC on the transfer requests. NERC notes that SPP RE and NPPD had a full opportunity to present their case and that the NERC Board gave thorough and careful consideration to the views expressed by each of the parties and the parties were able to hear the reasons for the NERC Board's decision expressed at the public meeting. NERC also filed a motion requesting that the Commission consolidate the two petitions in the same docket in order to ensure a complete and accurate record.

19. MRO opposes the transfer arguing that it would degrade the efficiency or effectiveness of the administration of reliability and negatively impact other Bulk-Power System owners, operators, and users. MRO states that within the NPPD footprint there are a number of facilities that are either jointly owned by, or otherwise tied to other registered entities within MRO which are not seeking transfer. MRO further notes that the vast majority of the NPPD Bulk-Power System ties into facilities belonging to entities that are in the MRO footprint and not the SPP RE footprint.

20. In support of its position, MRO highlights a public report for the August 29, 2009, system disturbance within the MRO region, involving the north-south bulk electric facilities of Nebraska and the Western Dakotas to demonstrate the strong interconnection between facilities in MRO and Nebraska. In this particular instance, MRO notes, both the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and SPP RTO were involved as the reliability coordinators and both were within the MRO region, allowing MRO to coordinate this RTO seam effectively.

---

<sup>19</sup> SPP RTO did not seek to intervene in the proceedings.

21. MRO expresses concern about the instability of Regional Entities if voluntary membership of energy markets outside of the Regional Entity footprint changes the regional boundary.<sup>20</sup> MRO states:

there is no guarantee that each of the Nebraska Entities would continue participation in the SPP-RTO market. As the SPP-RTO market develops, any one of the Nebraska Entities could decide to exit that market and seek alternatives . . . .  
Axiomatically, voluntary changes of memberships in markets simply should not drive changes in the Compliance Enforcement Authority.<sup>21</sup>

As an example, MRO highlights that since SPP RE filed its comments with NERC in August 2010, Omaha Public Power has withdrawn as a transmission owning member within SPP RTO and is not challenging NERC's denial of its request to transfer its compliance registration from MRO to SPP RE.

22. MRO argues that NPPD's claim of duplicative or inconsistent requirements is unfounded and contrary to the experience of similarly situated entities. MRO states that it entered into a coordination agreement with SPP RE and NPPD that addressed and resolved these potential issues. According to MRO, many of the coordination agreements have been necessitated because of legacy, transitional issues regarding "fill in the blank" standards, or alignment of NERC technical assessments, and as these underlying transitional issues have been resolved, the need for the coordination agreements has decreased.<sup>22</sup> MRO disagrees that NPPD must comply with "two sets of rules;" SPP RTO is the reliability coordinator and planning authority for NPPD, and MRO administers FPA section 215 responsibilities consistent with its delegated authority.<sup>23</sup> MRO claims that, under NPPD's logic, every registered entity that is a member of an RTO or ISO is a "dual citizen."<sup>24</sup>

23. Lincoln Electric opposes the requested transfers, stating that membership in a RTO is voluntary. Lincoln Electric notes that RTO boundaries are subject to

---

<sup>20</sup> MRO Protest at 14.

<sup>21</sup> *Id.* (quoting MRO Comments from the underlying NERC proceeding).

<sup>22</sup> *Id.* at 12.

<sup>23</sup> *Id.* at 13.

<sup>24</sup> *Id.* at 14.

considerable change over time, with markets shrinking and growing. Lincoln Electric states that permitting transmission owners to switch Regional Entities because they have changed RTO membership would cause fluctuations in Regional Entities' scope. Lincoln Electric also states that allowing registered entities to switch Regional Entities with changing RTO membership will cause instability and cost shifting that would blur the lines between market administration and reliability.

24. WAPA is concerned that transfer of NPPD will unduly burden WAPA with further variation in its reporting requirements. WAPA owns and operates the Grand Island Substation in southeastern Nebraska, which interconnects with the NPPD transmission system, and equipment within the substation is owned and maintained by both WAPA and NPPD. According to WAPA, if NPPD transfers its compliance registration to SPP RE, such a transfer would result in WAPA and NPPD owning and maintaining equipment within the same substation but reporting to two different Regional Entities for compliance. WAPA believes this will complicate reporting and compliance efforts and does not promote efficient and effective administration of section 215 of the FPA.

25. Basin argues that the boundary changes will adversely affect the operation of the Bulk-Power System. Basin notes that NPPD's joint ownership of facilities with other entities registered in MRO as well as its extensive interconnections with entities registered in MRO will require MRO and SPP RE to coordinate their compliance monitoring and enforcement efforts for those facilities. Basin states that NPPD's petition implicitly acknowledges that the transfer could complicate the enforcement and monitoring processes, and result in increased inefficiencies and less effective administration of Reliability Standards. Basin contends that NPPD's request ignores the Commission's directive to maintain separation between RTOs and Regional Entities and that because the Commission requires such separation there is no basis for concluding that transferring NPPD to the SPP RE would promote the efficient and effective administration of the Bulk-Power System.

#### **E. Answers**

26. In its answer to the comments and protests, SPP RE states that the increased burden caused by the transfer of the Nebraska Entities is false. It contends that numerous registered entities across the U.S. are subject to compliance supervision by multiple Regional Entities. SPP RE argues that the situations described by WAPA and Lincoln Electric are routinely faced by SPP RE and other Regional Entities along their borders, and such issues between MRO and SPP RE currently exist and have been managed effectively. SPP RE responds to WAPA's comment regarding the ownership of equipment by different registered entities at the same physical location by noting that regardless of location of facilities, each registered entity is responsible for its own equipment and the Regional Entities should be administering the Compliance Monitoring and Enforcement Program in essentially the same manner. SPP RE also notes that such

cases are often addressed through coordination agreements negotiated among affected parties. According to SPP RE, such “entity specific” issues can and should be worked out among the relevant entities.

27. In its answer, NPPD notes that separate ownership of transmission facilities within a substation is a common situation on the Bulk-Power System, and its occurrence on the borders of neighboring Regional Entities will not degrade reliability because the responsibility for maintenance and operation of these facilities is addressed in an interconnection agreement. NPPD adds that allowing it to transfer would negate the need for waivers to the redundant reporting requirements, and negate the possibility of adverse consequences from differing reporting requirements, and thereby furthers the statutory objective of more efficient, effective bulk power administration.

28. MRO requests that the Commission dismiss SPP and NPPD’s answers because the Commission did not request further answers in response to comments. MRO further notes that SPP’s and NPPD’s answers do not offer new facts or evidence that would aid the Commission by clarifying or explaining issues. MRO adds that NPPD is wrong in claiming that the record before the NERC Board contained no evidence that approval of NPPD’s request to transfer would degrade the effectiveness and efficiency in the administration of reliability.

### **III. Discussion**

#### **A. Procedural Matters**

29. Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure,<sup>25</sup> the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214(d) of the Commission’s Rules of Practice and Procedure,<sup>26</sup> the Commission will grant EEI’s late-filed motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay. We will treat SPP RTO’s May 10, 2011, letter as a motion to intervene out-of-time and will accept it as well.

30. Rule 213(a)(2) of the Commission’s Rules of Practice and Procedure,<sup>27</sup> prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept

---

<sup>25</sup> 18 C.F.R. § 385.214 (2011).

<sup>26</sup> *Id.* § 385.214(d).

<sup>27</sup> *Id.* § 385.213(a)(2).

the answers because they have provided information that has assisted us in our decision-making process.

**B. Commission Determination**

31. As noted above, the Commission has jurisdiction and authority over any proposed modification to a delegation agreement, including a modification to effectuate a transfer of a registered entity's compliance registration from one Regional Entity to another. The applicable standard for the Commission's review of any proposed compliance registration transfer is whether the transfer will promote effective or efficient administration of Bulk-Power System reliability.<sup>28</sup> Further, the Commission will evaluate a proposed transfer in the context of the particular facts and circumstances of the specific request.<sup>29</sup> As discussed in detail below, the record in this proceeding does not support a finding that the transfer of the Nebraska Entities to SPP RE would promote the effectiveness or efficiency of the administration of reliability.

32. We are persuaded based on the record in this proceeding that the Nebraska Entities' transfer to SPP RE would likely result in compliance auditing inefficiencies and the need for increased coordination between Regional Entities. MRO states NPPD has a total of 34 ties into entities within the MRO footprint, which include: seven 345 kV, five 230 kV, three 161 kV, thirteen 115 kV, five 69 kV and one 35 kV lines. In contrast, NPPD has three ties into the SPP RE footprint, which include three 345 kV lines. WAPA and Basin both note that NPPD jointly owns facilities with other entities registered in MRO as well as its extensive Bulk-Power System ties with entities registered in MRO, which if NPPD were to transfer its compliance registration to SPP RE would require MRO and SPP RE to coordinate their compliance monitoring and enforcement efforts for those jointly owned facilities. Although SPP RE and NPPD downplay such joint monitoring as typical and easily resolved by agreements, we believe that, in the balance, MRO and others have set forth reasonable facts and explanations that the proposed transfer would, in fact, complicate matters. Accordingly, we find that the increased coordination would not promote the effectiveness or efficiency of the administration of reliability and would create a greater administrative burden to other registered entities within the MRO footprint.

33. Further, we are not persuaded by NPPD's argument that SPP RE's and MRO's different requirements in their real capability guidelines cause inefficiencies. NPPD confuses the differences between SPP RE and SPP RTO. Although it may be true that

---

<sup>28</sup> Order No. 672, FERC Stats. & Regs. ¶ 31,204 at P 673. *See also* 16 U.S.C. § 824o(e)(4)(C) (2006); 18 C.F.R. § 39.8(c)(3) (2011).

<sup>29</sup> Order No. 672, FERC Stats. & Regs. ¶ 31,204 at P 671.

SPP RE's and MRO's real capability guidelines and resource adequacy assessments differ in methodology, because NPPD is a member of SPP RTO and *not* a member of SPP RE, NPPD will only need to comply with MRO's guidelines and methodologies. Regional Entities focus on overall reliability, regardless of which RTO/ISO(s) may or may not be present within its footprint. As such, any additional costs associated with participation within SPP RTO are, and always will be, a business consideration for any current or prospective participant, and should not affect Regional Entity footprints.

34. We also disagree that denying NPPD's request to transfer to SPP RE on the grounds that it participates in SPP RTO's market footprint will adversely influence other registered entities from joining an RTO. NPPD is not punished for participating in an RTO market that is physically located outside of the footprint of its Regional Entity, as RTO functions are completely separate from compliance with Reliability Standards. SPP RE fails to justify its argument in the face of currently established RTO/ISO markets. For example, the Midwest ISO market spans parts of MRO, ReliabilityFirst (RFC), and SERC Reliability Corporation (SERC). In the same vein, PJM Interconnection, L.L.C. spans across parts of RFC and SERC.<sup>30</sup> Thus, the Commission is not persuaded that differences between the location of energy markets and a Regional Entity footprint are enough to necessitate a transfer in boundary between Regional Entities.

35. The Commission disagrees that the requested transfer would promote SPP RE's administration of reliability within its footprint. The evidence that SPP RE and NPPD rely upon indicates that it is the registered entities, rather than system reliability or even SPP RE, that would benefit from the transfer. For example, SPP RE cites its coordination of meeting dates and locations as a convenience to its RTO and Regional Entity members, which provides "valuable efficiencies in the form of decreased time and travel costs and improved personnel assignments for registered entities that are both members of the SPP RTO and registered with the SPP RE."<sup>31</sup> The Commission previously held that a benefit to an individual registered entity is inadequate to justify such a transfer.<sup>32</sup> Moreover, the cost related to RTO market participation is a consideration for entities

---

<sup>30</sup> Further examples include National Grid, which participates in both New York ISO and ISO New England, located within Northeast Power Coordinating Council and Entergy, which is currently seeking to join Midwest ISO, but is within the SPP RE footprint.

<sup>31</sup> SPP RE Petition at 12.

<sup>32</sup> "This process ... should not merely benefit an individual registered entity." October 2010 Order, 133 FERC ¶ 61,061 at P 72.

when deciding whether to join a RTO market; it is not a factor upon which to base Reliability Standards compliance registration.<sup>33</sup>

36. SPP RE also contends that the Nebraska Entities' transfer to SPP RE will reduce fees for its current load serving entities by approximately six percent and that the overall cost of SPP RE and MRO would reflect a shift in per Mwh costs among registered entities in the regions resulting in an overall "wash." Assuming the cost shift that SPP RE describes would be a wash, cost neutrality of the proposed transfer does not promote the effectiveness or efficiency of the administration of reliability.

37. Finally, the Commission disagrees with SPP RE and NPPD that any such transfer will "enhance" reliability, as this transfer only affects which Regional Entity will conduct audits to review compliance to the Reliability Standards. The entity that audits the compliance with the Reliability Standards should not affect compliance with the standards themselves, nor cause any additional synergies or redundancies because compliance activities are separate and distinct from market activities. As such, because the Nebraska Entities are not registered entities within SPP RE, the Commission finds that any administrative burden is more easily and appropriately remedied by the Nebraska Entities seeking appropriate waivers from the SPP Criteria.<sup>34</sup>

38. Thus, the Commission finds that, based on the specific facts and circumstances presented in this proceeding as discussed above, the record does not support a finding that the transfer of the Nebraska Entities to SPP RE would promote the effectiveness or efficiency of the administration of reliability. Consequently, the Commission denies NPPD's and SPP RE's Petitions and declines to approve the Nebraska Entities' proposed transfer of their compliance registrations to SPP RE.

39. In response to NERC's request that we formally consolidate the proceedings, given that we are addressing the two petitions in this order and not ordering a hearing, there is no need for formal consolidation.<sup>35</sup>

---

<sup>33</sup> See *American Transmission Systems, Inc., et al.*, 129 FERC ¶ 61,249, at P 113 (2009).

<sup>34</sup> See, e.g., Lincoln Electric Comments at 10, <http://www.spp.org/publications/Criteria%20and%20Appendices%20April%202025,%20202011.pdf>

<sup>35</sup> *Cal. Pub. Utils. Comm'n*, 132 FERC ¶ 61,047, at P 62 (2010).

The Commission orders:

The NPPD and SPP RE Petitions are hereby denied, as discussed in the body of the order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.