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Our File: 11-4265
Date: May 30, 2013

British Columbia Utilities Commission
6th Floor – 900 Howe Street
Vancouver, BC V6Z 2V3

Attention: Erica Hamilton, Commission Secretary and Mark R. Thomas, Director of Infrastructure

Dear Madame and Sir:

Re: Inquiry into Potential Adjustments for the British Columbia Mandatory Reliability Standards (MRS) Program, Order R-72-12 (Inquiry)
Association of Major Power Customers of BC (AMPC) Submission

We are legal counsel to AMPC in this matter. We write to provide AMPC's final submission in this Inquiry.

A. Overview and Summary of Recommendations

This submission reviews and summarizes AMPC's recommendations in this proceeding.

In this submission, we have quoted very extensively from recent FERC Order 773-A because the major issues in this Inquiry are focused on ensuring that provincial standards are consistent with North American transmission reliability standards. FERC and NERC set the standards for the United States and accordingly, the majority of North American jurisdictions.

FERC Decision 773-A is a very recent Decision, having only taken effect on May 17, 2013, on reliability standards and addresses and confirms Order 773. Order 773-A would have the new BES implemented July 1, 2013.[1] Order 773-A speaks directly to many key issues, including the need for a "bright-line threshold" at 100kV, the need and

[1] AMPC is aware of a request to delay the implementation of the new BES. AMPC does not propose or expect that the new BES should be implemented in BC prior to its implementation in the United States. It does submit that the new BES should be implemented in BC as soon after it is implemented in the US as possible.

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justification for an exception process, and appropriate transition provisions. In preparing this submission, we felt it was important that the Commission see exactly what FERC has to say on these topics with a minimum of interpretation. We thought it was also important that the Commission see that the concerns raised by some of the participants in the FERC process are similar to some raised in this Inquiry, and most importantly, that the Commission see that FERC moved forward on a principled basis and refused to be side-tracked by comparatively minor details.

AMPC submits that if the new NERC definition of the BES and the proposed exemption process are good enough for FERC, with all the diversity that will be experienced in the US, they should be good enough for British Columbia.

AMPC recommends this Inquiry do the following:

1. Confirm the desirability of adopting the revised FERC/NERC definition of the BES (Attachment A) as soon as possible. Doing so will bring British Columbia's MRS program back in line with standards in the United States and will ensure that BC is not burdened with compliance measures not generally adopted elsewhere. Leveling the playing field is important to BC industry, which currently carries an excessive MRS administrative burden in comparison to other jurisdictions.

2. Adopt FERC/NERC rules for transition to the new BES and <u>not</u> the process proposed by part A of Straw Dog No. 1. Specifically, the Commission should confirm that … *"in the absence of bad faith, if a registered entity applies the bulk electric system definition and determines that an element no longer qualifies as part of the bulk electric system, upon notifying ~~the appropriate Regional Entity~~[WECC and the Commission] that the element is no longer part of the bulk electric system the element should not be treated as part of the bulk electric system unless ~~NERC~~ [the Commission] makes a contrary determination in the exception process."*[2] *(strikeouts and bracketed additions made to the FERC quote to reflect BC circumstances)*

3. Direct that the Technical Advisory Committee (TAC) must (i) include technically qualified representatives of load customers and independent power producers (IPP) and (ii) make it clear to all that Committee members must make TAC decisions in the interests of overall system reliability and efficient operations and not simply vote a party position. AMPC believes it is essential that load be represented on this Committee. Load and IPP representatives are likely to bring a different viewpoint from the utilities on reliability and on administration that must be heard at this level and stage of future processes.

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[2] FERC Order 773-A para. 110

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4. Recognize that MRS penalties must reflect a new and complex system of compliance, where only deliberate or recurring non-compliance is targeted and punished, and that any assessed penalty amounts must be in line with other jurisdictions and regulatory regimes. The Commission should also make it clear that, consistent with FERC Order 773-A para. 110, a party who does not fall under the new BES and is not otherwise subject to an exception order is not subject to penalties.

While we have not made specific suggestions for changes to the Straw Dogs to reflect FERC Order 773-A, clearly some will have to be made. Where AMPC has not taken a position on a specific issue raised in the Straw Dogs in this submission or a prior AMPC submission, its silence should not be understood as either support or opposition.

B. AMPC's interest in MRS

AMPC members represent approximately 20% of BC Hydro's total load, 80% of its industrial load, and take service at a transmission level. Some AMPC members also operate generation and transmission facilities as ancillary components of their operations.

AMPC shares the concerns of all customers on the Canada/United States interconnected electricity grid: that our electricity supply be secure and reliable. Because of the size and nature of their operations, AMPC members are more involved with mandatory reliability standards than most customers. The basic facts around that relationship are set out in a letter to the Commission dated January 31, 2013.[3] They have not changed and are repeated for convenience below:

> *AMPC's experience with MRS has been that reliability functions previously provided by BC Hydro have become those of AMPC members. The resulting obligations to register, develop compliance plans in some cases, document and prepare reports to the Western Electricity Coordinating Council (WECC), and prepare for WECC audits are new obligations and costs. These obligations and costs exist in addition to the good engineering practices that AMPC customers have consistently undertaken, and come at a disproportionate cost to AMPC members.*

[3] Exhibit C14-3.

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The anomalous nature of BC MRS compliance costs is apparent when comparing the entities in neighbouring jurisdictions that are subject to similar obligations. In the U.S., Alberta, and other Canadian provinces, only transmission facility operators and generators are typically subject to MRS standards, and not customers.

C. Background

There have been a number of developments that have occurred in the United States since this proceeding commenced that are very relevant to the ultimate decision in this matter. In order to put those developments in context, it is useful to first look back and reflect on the reasons why this proceeding was commenced in October of 2012.

BCUC Order R-72-12

In the Commission's public notice announcing this Inquiry on October 9, 2012, the Commission singled out two items for comment. They were:

- a new Bulk Electric System (BES) definition recommended by the North American Electric Reliability Corporation (NERC), together with an exception process to be provided for in the NERC Rules of Procedure; and

- assessments of severity and risk levels for administrative penalties following violations of the BC MRS Program.

Order R-72-12 also set out the legislative framework the Commission must be guided by. Specifically, it noted:

- *The Government of British Columbia's 2007 "BC Energy Plan: A Vision for Clean Energy Leadership" included Policy Action No. 14, to "ensure that the province remains consistent with North American transmission reliability standards";*

- *Section 125.2 of the Utilities Commission Act (the Act), which includes the following provisions*

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Adoption of reliability standards, rules or codes

125.2 (1) In this section:

"reliability standard" means a reliability standard, rule or code established by a standard-making body for the purpose of being a mandatory reliability standard for planning and operating the North American bulk power system, and includes any substantial change to any of those standards, rules or codes;

"standard-making body" means

(a) the North American Electric Reliability Corporation,

(b) the Western Electricity Coordinating Council, and

(c) a prescribed standard-making body.

(2) For greater certainty, the commission has exclusive jurisdiction to determine whether a reliability standard is in the public interest and should be adopted in British Columbia.

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(6) After complying with subsection (5), the commission, subject to subsection (7), must adopt the reliability standards addressed in the report if the commission considers that the reliability standards are required to maintain or achieve consistency in British Columbia with other jurisdictions that have adopted the reliability standards.

(7) The commission is not required to adopt a reliability standard under subsection (6) if the commission determines, after a hearing, that the reliability standard is not in the public interest.

All parties appear to agree that the relevant standards for comparative purposes for the "North American Bulk Power system" referenced in Sec. 125.2 are those developed by NERC and approved by FERC in Order 773 and Order 773-A.

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FERC Order 773

On December 20, 2012, FERC issued Order No. 773, which approved the NERC-proposed new BES that sparked this proceeding (as noted above). In FERC's words, Order No. 773:

> *… approves modifications to the currently-effective definition of "bulk electric system" developed by the North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization. The Commission finds that the modified definition of "bulk electric system" removes language allowing for regional discretion in the currently-effective bulk electric system definition and establishes a bright-line threshold that includes all facilities operated at or above 100 kV. The modified definition also identifies specific categories of facilities and configurations as inclusions and exclusions to provide clarity in the definition of "bulk electric system."*
>
> *In this Final Rule, the Commission also approves: (1) NERC's revisions to its Rules of Procedure, which create an exception process to add elements to, or remove elements from, the definition of "bulk electric system" on a case-by-case basis; (2) NERC's form entitled "Detailed Information to Support an Exception Request" that entities will use to support requests for exception from the "bulk electric system" definition; and (3) NERC's implementation plan for the revised "bulk electric system" definition. (underling added)*

FERC's order was made following extensive consultations and deliberations by NERC that led to an application to FERC to approve proposed terms. The consultation and approval processes were on a scale and level of detail that simply cannot happen in Canada. Because of this extensive consultation, the fact that the BC electrical system is connected to the US and is very much a part of the regional MRS situation, and the clear wording of Sec. 125.2 of the Act, FERC's decisions must at minimum be given a great deal of weight, and in AMPC's submission, must be followed in this proceeding.

Order 773-A

Following the publication of Order 773, a number of affected parties in the US requested that FERC review and reconsider its decision in that matter. This, of course, increased for a period of time the uncertainty around the terms and timing of the implementation of Order 773. Information Requests by Commission Staff addressed the uncertainty

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issues in this proceeding.[4] Fortunately for this Inquiry process, FERC's reconsideration decision was issued on April 18, 2013 and took effect on May 17, 2013. AMPC is not aware of any further appeals or requests for reconsideration and accordingly, considers Orders 773 and 773-A to now be final.

Order 773-A upholds Order 773 in all relevant aspects for this proceeding and emphasizes the overriding importance of a universal "bright-line threshold". In so doing, it also provides useful insight on several key issues including the defining of facilities necessary for operating an interconnected transmission network and appropriate transition provisions for customers currently caught as registered entities who will no longer be registered entities once the new FERC/NERC thresholds are applicable. Key passages, in the order in which they are found in the Decision, include the following:

(i) A summary of what FERC considered to be the key elements of Order 773.

> *1. … The Commission found that the modified definition of "bulk electric system" improves upon the currently-effective definition by establishing a bright-line threshold that includes all facilities operated at or above 100 kV and removing language that allows for broad regional discretion. The Commission also found that the revised definition provides improved clarity by identifying specific categories of facilities and configurations as inclusions and exclusions. The Commission also found that NERC's case-by-case exception process to add elements to, and remove elements from, the definition of the bulk electric system adds transparency and uniformity to the determination of what constitutes the bulk electric system. The Final Rule found that, after notice and comment, the Commission can designate sub-100 kV facilities, or other facilities, as part of the bulk electric system. The Commission also established a process pursuant to which an entity can seek a determination by the Commission whether facilities are "used in local distribution" as set forth in the Federal Power Act (FPA). (underling added)*

(ii) A description of the goals behind NERC's design.

> *3. On November 18, 2010, in Order No. 743, the Commission directed that NERC, through NERC's Reliability Standards Development Process, develop modifications to the currently-effective definition of the term "bulk electric system" to ensure that the definition encompasses all facilities necessary for operating the interconnected transmission network. The Commission also directed NERC to address the Commission's technical and policy concerns. Among the*

[4] Ex. A-12, Q. 1.1

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Commission's concerns were inconsistencies in the application of the definition and a lack of oversight and exclusion of facilities from the bulk electric system required for the operation of the interconnected transmission network. In Order No. 743, the Commission concluded that the best way to address these concerns was to eliminate the Regional Entity discretion to define the bulk electric system without NERC or Commission review, maintain a bright-line threshold that includes all facilities operated at or above 100 kV except defined radial facilities, and adopt an exemption process and criteria for removing from the bulk electric system definition, those facilities that are not necessary for operating the interconnected transmission network. …." (underling added)

(iii) A description of Order 773 and an affirmation of the goals in implementing it.

7. On December 20, 2012, the Commission issued Order No. 773, a final rule approving NERC's modifications to the definition of "bulk electric system" and the exception process, in response to Order Nos. 743 and 743-A. The Commission found that the revised definition of "bulk electric system" establishes a bright-line threshold that includes all facilities operated at or above 100 kV and removed language from the prior definition that allows for broad regional discretion. Further, the Commission found that inclusions and exclusions in the definition that address typical system facilities and configurations such as generation and radial systems provide additional granularity that improves consistency and provides a practical means to determine the status of common system configurations.

8. In the Final Rule, the Commission found that the modified definition is consistent, repeatable and verifiable and will provide clarity that will assist NERC and affected entities in implementing Reliability Standards. The Commission also found that NERC's proposal satisfies the directives of Order No. 743 to develop modifications to the currently-effective definition of bulk electric system to ensure that the definition encompasses all facilities necessary for operating an interconnected transmission network.

9. The Commission also approved NERC's case-by-case exception process to add elements to, and remove elements from, the definition of the bulk electric system. … (underling added)

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(iv) A confirmation of the reasonableness of a 100kV bright-line threshold.

> *23. In sum, we deny rehearing and affirm that approval of the 100 kV bright-line threshold was adequately supported with a technical justification. Petitioners raise arguments that the Commission has previously considered and rejected in this proceeding as well as previous Commission decisions with respect to the reasons for requiring revisions to the definition of bulk electric system. In all these cases, the Commission explained and justified the appropriateness of a 100 kV threshold. Therefore, we reject the requests for rehearing on these issues. (underling added)*

(v) A rejection of a "functional test" as subjective and confirmation that NERC's proposal adequately ensures that all facilities necessary for operating the BES are included.

> *24. We also reject the argument that a functional test is a more appropriate manner to determine which facilities are part of the bulk electric system. In Order No. 743, the Commission concluded that a material impact or functional test excludes facilities "without regard to whether they are necessary to operate the system, and instead seek to determine the impact of the loss of an element." The Commission also concluded that these tests are subjective and result in an inconsistent process that excludes facilities from the bulk electric system. In the NOPR comments in this proceeding, these same issues were raised, and in the Final Rule the Commission again rejected them. Further, as discussed in detail in the Final Rule, the Commission found that NERC's proposal adequately ensures that all facilities necessary for operating an interconnected electric energy transmission network are included under the bulk electric system. In the Final Rule, the Commission also relied on its finding in Order No. 743 that*
>
> > *"[U]niform Reliability Standards, and uniform implementation, should be the goal and the practice, the rule rather than the exception, absent a showing that a regional variation is superior or necessary due to regional differences. Consistency is important as it sets a common bar for transmission planning, operation, and maintenance necessary to achieve reliable operation. . . . [W]e have found several reliability issues with allowing Regional Entities broad discretion without ERO or Commission oversight. (underling added)*

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(vi) A clear plan for the transition of (i) entities that will fall under the BES for the first time as registered entities, and (ii) entities that are currently "registered entities" but will no longer be under the new BES.

> *26. With regard to NYPSC's request for clarification about the need to upgrade facilities while an exception request is pending, in Order No. 743-A we agreed with petitioners "that currently unregistered entities that may be required to seek an exemption for facilities under the revised bulk electric system definition will not be required to register and thereafter comply with Reliability Standards until a final decision is made to deny the application for exemption," stating that "entities should not be required to take costly steps to comply with the Reliability Standards prior to the ERO's initial determination on an exemption request." NERC's exception process is consistent with the approach in Order No. 743-A. According to NERC, elements that are newly-included in the bulk electric system due to the revised definition will only become subject to relevant Reliability Standards twenty-four months after the effective date of the revised definition. It is NERC's expectation that during the twenty-four month transition period entities with newly-included elements will file exception requests and the Regional Entities and NERC will make determinations of the exception requests. This transition period is sufficient to obtain a NERC ruling and avoid any compliance costs. However, if an element that is already deemed part of the bulk electric system and subject to relevant Reliability Standards today is included by application of the revised definition of bulk electric system, but an entity seeks an exclusion exception of the element, the element will remain subject to the relevant Reliability Standards during the pendency of the exception process. Conversely, if an element is excluded from the bulk electric system by application of the revised definition, but a different entity with a reliability oversight obligation seeks to include the element in the exception process, the element will not be subject to Reliability Standards during the exception process. If NERC determines the element is needed for operation of the interconnected transmission network and thus part of the bulk electric system, the entity can propose an appropriate implementation plan for compliance. (underling added)*

(vii) A confirmation that whether or not radial facilities are necessary for operation of the interconnected system should be decided through the exception process.

> *36. … Moreover, as noted in the Final Rule, the sub-100 kV elements comprising radial systems and local networks will not be included in the bulk electric system, unless determined otherwise in the exception process. (underling added)*

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(viii) Clarification of the need for notice that an entity is no longer a part of the BES and the applicability of penalties during the transition period.

> *110. The Commission agrees with Snohomish that, in the absence of bad faith, if a registered entity applies the bulk electric system definition and determines that an element no longer qualifies as part of the bulk electric system, upon notifying the appropriate Regional Entity that the element is no longer part of the bulk electric system the element should not be treated as part of the bulk electric system unless NERC makes a contrary determination in the exception process. If the Regional Entity disagrees with the classification of the element and believes the element is necessary for reliable operation, the Regional Entity should initiate an exception request to include the element in the bulk electric system. If NERC agrees with the Regional Entity and determines that the element should be included in the bulk electric system, the registered entity should not be subject to retroactive liability for the time period the element was not included in the bulk electric system. (underling added)*

Bearing in mind the context of the MRS Inquiry and the FERC decisions concerning its new BES definition, AMPC discusses what it considers to be the major issues in this proceeding in the section that immediately follows.

D. Discussion of AMPC Issues in the BCUC's MRS Inquiry

AMPC addresses the following four issues below:

1. the desirability of adopting the new NERC BES definition;
2. appropriate transitions for Registered Entities resulting from a change in the BES;
3. representation on the TAC; and
4. the severity of the proposed penalties in the Straw Dog.

1. The desirability of adopting the new NERC BES definition

BC must not have a different standard from NERC/FERC. The goal of MRS is to protect the North American bulk power system and that can only be done through uniform definitions with a consistent exception process.

The removal of widespread "regional discretion" and the creation of a universal "bright-line threshold" benefits everyone. From a reliability perspective, mandatory reliability

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standards are no more effective than the weakest link. Accordingly, everyone must know what the standards are and meet them. NERC's definition in Appendix A, coupled with NERC's reasonable exception process, set a common standard for everyone. This in turn assures both that minimum standards are met and that money is not wasted in some areas by duplication or unnecessary local demands.

Requirements that would require entities to meet a higher regional standard than that required by FERC/NERC are either wasteful or made for different purpose than MRS and accordingly, not "*for the purpose of being a mandatory reliability standard for planning and operating the North American bulk power system*" and outside the purview of Section 125.2 of the Act.

Commission Staff information requests and AMPC's initial submission addressed the mechanics of implementing the new BES definition. AMPC's position remains consistent with its information request responses: the FERC BES definition should be adopted by reference in the MRS Regulation,[5] and the Commission should have the power to make exceptions to it.[6]

2. Appropriate transition provisions for Registered Entities resulting from a change in the BES

In its early submissions, AMPC suggested a 30-day "reverse onus" notification procedure[7] as a compromise between (i) a common sense view that if an entity is not covered by the law (the new BES), it is not a regulated entity and is not properly subjected to the responsibilities or risks of a regulated entity, and (ii) the process contained in part A of Straw Dog No. 1,[8] a conservative approach that double-checks entities' assessments, requiring continued compliance over a potential "two year transition period" (as suggested in Commission Staff IRs).

AMPC has changed its position. It has now reviewed Order 773-A and believes that the FERC/NERC process as described in paragraph 110 and repeated below is the only correct view:

> *… in the absence of bad faith, if a registered entity applies the bulk electric system definition and determines that an element no longer qualifies as part of the bulk electric system, upon notifying the appropriate Regional Entity that the*

[5] *Mandatory Reliability Standards Regulation*, BC Reg 32/2009
[6] Ex. C14-9, pp. 1 and 3-6
[7] Ex. C14-3 p.3-4
[8] Ex. A-7.

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element is no longer part of the bulk electric system the element should not be treated as part of the bulk electric system unless NERC makes a contrary determination in the exception process.

… If NERC agrees with the Regional Entity and determines that the element should be included in the bulk electric system, the registered entity should not be subject to retroactive liability for the time period the element was not included in the bulk electric system.

If BC subscribes to common North American standards for MRS and in turn, a common definition of the BES, this also implies a consistent treatment of registered entities. There is therefore no principled reason to establish a two-year (or any other) waiting period for this change to take effect. The Order 773-A approach should be adopted instead of the process described in part A of Straw Dog No.1.

3. Representation on the Technical Advisory Committee (TAC)

The "Straw Dogs" proposed the TAC to advise the Commission relating to BC-specific technical matters. Straw Dog No. 3 limited TAC membership to BC Hydro and FortisBC representatives[9] unless initial representatives chose to nominate members from other organizations.

In initial submissions, AMPC and almost every other non-utility entity participating in this proceeding opposed this aspect of the Straw Dogs, and insisted that representation be guaranteed to customer and independent power producer (IPP) representatives.[10] AMPC's reasons for this were because these groups are certainly capable of fielding qualified representatives and because utility and customers, or utilities and IPPs, could well have differing interests in the adjudication of MRS issues. The implication by Commission Staff IRs that TAC membership might not be relevant for customer or IPP representatives as it is not a "lobby group"[11] reflects a profound misunderstanding of the effect of MRS on business operations and the technical expertise available to these groups.

A BCUC Staff IR on Straw Dog #3 suggests that "members of the TAC would be selected for technical expertise and not be appointed to "represent" any organization or group of organizations."[12] In response to Q. 5.2, BC Hydro states *"While the TAC*

[9] Ex. A-9, p. 2.
[10] Ex. C4-2, p. 2; Ex. C14-3, pp. 7-8; Ex. C15-2, p. 2; Ex. C19-2, pp. 2 and 5-6
[11] Ex. A-14, Q. 3.1
[12] Ex. A-14, Q. 5.1, 5.2

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members will approach issues in an impartial and non-partisan manner most of the time, it is not reasonable to expect these experts to "leave their perspective at the door" when participating in, and considering issues before the TAC."[13] AMPC agrees in part. It is precisely because of the uniqueness of perspective of different stakeholders that the TAC must include load and IPP representatives. That said, it should be made clear to all that members of the TAC must make their TAC decisions in the interests of overall system reliability and efficient operations, and must not simply vote a party position.

AMPC accordingly reiterates its initial submission, which we do not believe is opposed by any party on the record to date, that TAC membership must include appropriately qualified customer and IPP representatives.

4. The Severity of Proposed Penalties

The Straw Dogs also proposed a matrix of risk factors and penalties for administrative penalties following MRS program violations. AMPC and several other participants in the Inquiry submitted that the penalty amounts appear severe relative both to other jurisdictions' MRS penalties and to regulatory offences generally under provincial and federal legislation.[14] No position or information has been placed on the record to contradict or oppose these positions, and AMPC accordingly repeats its initial submission here: MRS penalties must reflect a new and complex system of compliance, where only deliberate non-compliance is targeted and punished, with penalty amounts in line with other jurisdictions and regulatory regimes.

Yours truly,

Bull, Housser & Tupper LLP

R. Brian Wallace, Q.C.

[13] Ex. C17-13

[14] Ex. C13-2, p. 2; Ex. C14-3, p.7; Ex. C17-3, p. 12; Ex. C19-2, Appendix A

Note: Attachment A will not appear in the Code of Federal Regulations.

ATTACHMENT A

Definition of Bulk Electric System

Unless modified by the lists shown below, all Transmission Elements operated at 100 kV or higher and Real Power and Reactive Power resources connected at 100 kV or higher. This does not include facilities used in the local distribution of electric energy

Inclusions:

I1 - Transformers with the primary terminal and at least one secondary terminal operated at 100 kV or higher unless excluded under Exclusion E1 or E3.

I2 - Generating resource(s) with gross individual nameplate rating greater than 20 MVA or gross plant/facility aggregate nameplate rating greater than 75 MVA including the generator terminals through the high-side of the step-up transformer(s) connected at a voltage of 100 kV or above.

I3 - Blackstart Resources identified in the Transmission Operator's restoration plan.

I4 - Dispersed power producing resources with aggregate capacity greater than 75 MVA (gross aggregate nameplate rating) utilizing a system designed primarily for aggregating capacity, connected at a common point at a voltage of 100 kV or above.

I5 - Static or dynamic devices (excluding generators) dedicated to supplying or absorbing Reactive Power that are connected at 100 kV or higher, or through a dedicated transformer with a high-side voltage of 100 kV or higher, or through a transformer that is designated in Inclusion I1.

Exclusions:

E1 - Radial systems: A group of contiguous transmission Elements that emanates from a single point of connection of 100 kV or higher and:

a) Only serves Load. Or,

b) Only includes generation resources, not identified in Inclusion I3, with an aggregate capacity less than or equal to 75 MVA (gross nameplate rating). Or,

c) Where the radial system serves Load and includes generation resources, not identified in Inclusion I3, with an aggregate capacity of non-retail generation less than or equal to 75 MVA (gross nameplate rating).

Note – A normally open switching device between radial systems, as depicted on prints or one-line diagrams for example, does not affect this exclusion.

E2 - A generating unit or multiple generating units on the customer's side of the retail meter that serve all or part of the retail Load with electric energy if: (i) the net capacity provided to the BES does not exceed 75 MVA, and (ii) standby, back-up, and maintenance power services are provided to the generating unit or multiple generating units or to the retail Load by a Balancing Authority, or provided pursuant to a binding obligation with a Generator Owner or Generator Operator, or under terms approved by the applicable regulatory authority.

E3 - Local networks (LN): A group of contiguous transmission Elements operated at or above 100 kV but less than 300 kV that distribute power to Load rather than transfer bulk-power across the interconnected system. LN's emanate from multiple points of connection at 100 kV or higher to improve the level of service to retail customer Load and not to accommodate bulk-power transfer across the interconnected system. The LN is characterized by all of the following:

a) Limits on connected generation: The LN and its underlying Elements do not include generation resources identified in Inclusion I3 and do not have an aggregate capacity of non-retail generation greater than 75 MVA (gross nameplate rating);

b) Power flows only into the LN and the LN does not transfer energy originating outside the LN for delivery through the LN; and

c) Not part of a Flowgate or transfer path: The LN does not contain a monitored Facility of a permanent Flowgate in the Eastern Interconnection, a major transfer path within the Western Interconnection, or a comparable monitored Facility in the ERCOT or

Quebec Interconnections, and is not a monitored Facility included in an Interconnection Reliability Operating Limit (IROL).

E4 – Reactive Power devices owned and operated by the retail customer solely for its own use.

Note - Elements may be included or excluded on a case-by-case basis through the Rules of Procedure exception process.