

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

**North American Electric Reliability
Corporation**)
)

Docket No. RR25-1-000

**REPLY COMMENTS OF THE
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
TO COMMENTS OF PUBLIC CITIZEN, INC.**

The North American Electric Reliability Corporation (“NERC”) respectfully submits the following reply comments addressing concerns raised by Public Citizen, Inc. (“Public Citizen”) in comments filed in response to NERC’s October 14, 2024 Petition for approval of revisions to the NERC Rules of Procedure Appendix 4E, Compliance and Certification Committee Hearing Procedures, Hearing Procedures for Use in Appeals, and Mediation Procedures.¹

In particular, NERC seeks to clarify that the Petition did not propose any revisions to the Compliance and Certification Committee (“CCC” or “Committee”) membership qualifications or structure. In addition, the revisions to the hearing and mediation procedures are for clarification and alignment across the NERC Rules of Procedure. Further, the hearing and mediation procedures govern a relatively infrequent component of the NERC appeals process, and entities retain the ability to appeal decisions to the Federal Energy Regulatory Commission (“FERC” or “Commission”).

The CCC is composed of stakeholders representing a broad range of entities, organized by industry sector and supplemented by at-large members to “ensure that final configuration of the Committee best reflects the perspectives of the whole membership of the industry.”² This structure

¹ NERC seeks leave to submit this reply and requests that the Federal Energy Regulatory Commission (“Commission”) waive Rule 213(a)(2), 18 C.F.R. 385.213(a)(2), for this purpose. This reply should be permitted because it enhances the record by clarifying and completing the record on issues raised by Public Citizen.

² NERC, Compliance and Certification Committee Charter at p. 3 (Ch. 2 – At-Large Members), <https://www.nerc.com/comm/CCC/Documents/CCC%20Charter%20FERC%20Approved%2011192020.pdf>.

has been in place since the Commission’s approval in 2007.³ Relevant to the concerns raised by Public Citizen, the CCC’s activities are subject to NERC Board of Trustees oversight. As described in the FERC-approved CCC Charter,⁴ members are appointed at regular intervals, with approximately one-third of the CCC subject to reappointment or replacement every year. In addition, members are subject to conflict of interest rules to ensure that no entity gains a disproportionate vote on Committee matters. The Petition consists of clarifying revisions made to bring the hearing and mediation procedures into alignment with the NERC Rules of Procedure and other governing documents and does not contain any revisions to how the Hearing Panels are staffed from existing CCC membership and structure.

NERC also seeks to clarify that the hearing and mediation procedures only come into effect after an entity disputes a finding or penalty assessed by NERC as the CEA, an occurrence that is “extremely limited.”⁵ Further, if an entity disputes the determination made by the Hearing Panel, the entity may appeal that determination to the Commission. Relevant to the concerns raised by Public Citizen, the hearing and mediation procedures are updated in the Petition to bring the procedures into alignment with the NERC Rules of Procedure and its Compliance Monitoring and Enforcement Program (“CMEP”) revisions, which the Commission approved in 2022.⁶

In addition, NERC seeks to briefly address several other issues raised in Public Citizen’s comments. First, NERC’s proposal to permit interventions before Hearing Panels aligns the hearing procedures for certification appeals with the procedures for compliance monitoring determination appeals when NERC acts as the sole CEA. Second, NERC proposes removing the

³ Order on Compliance Filing, 119 FERC ¶ 61,248 at PP 51-52 (June 7, 2007).

⁴ *N. Am. Elec. Reliability Corp.*, Docket No. RR20-4-000 (Nov. 19, 2020) (delegated letter order) (accepting revisions to the CCC Charter).

⁵ See NERC Answer, Docket Nos. RR06-1-003, RR06-1-005, and RR06-1-007 at pp. 7-9 (May 3, 2007).

⁶ See Order Approving in Part and Denying in Part Revisions to *N. Am. Elec. Reliability Corp. Rules of Proc.*, 179 FERC ¶ 61,129 (May 19, 2022).

signature attestation on filings to bring the procedures in alignment with other proceedings in the NERC Rules of Procedure, which do not require similar attestations. Third, the additional clarifying language regarding a Hearing Officer only codifies and details the role's existing duties and responsibilities and does not alter the Hearing Panel's ultimate decision-making authority. Finally, new language in the introduction to the mediation procedures is included for context and does not change any substance of the mediation process.

NERC appreciates the opportunity to provide these clarifying comments and respectfully requests that the Commission accept them for consideration and approve the proposed amendments to the NERC Rules of Procedure, as described in the October 14, 2024 Petition.

Respectfully submitted,

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