

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

Revision to Electric Reliability Organization) Docket No. RM09-18-000
Definition of Bulk Electric System)

Comments of the Public Power Council

On March 18, 2010, the Commission issued in this docket a Notice of Proposed Rulemaking regarding the *Revision to Electric Reliability Organization Definition of Bulk Electric System* (NOPR).¹ Comments on the NOPR are due on May 10, 2010.² Public Power Council files its comments pursuant to the Commission’s notice in the Federal Register.³

PPC’s Interests in this Proceeding

Public Power Council (PPC) is a non-profit trade association that represents the common interests of more than 100 consumer-owned electric utilities in the Pacific Northwest that are requirements power and transmission customers of the Bonneville Power Administration (BPA). PPC’s members are located and serve retail customers in Washington, Oregon, Idaho, Montana and Nevada, and they use the interconnected transmission system to wheel power to their distribution systems. PPC is a member of the North American Electric Reliability Corporation (NERC) and the Western Electric Coordination Council (WECC), as are many of PPC’s members.

¹ 130 FERC ¶ 61,204 (Mar. 18, 2010), 75 Fed. Reg. 14097 (Mar. 24, 2010).

² NOPR at 75 Fed. Reg. 14097.

³ *Id.*

Communications

PPC and the other parties request that service in this proceeding be made upon, and communications directed to, the following persons:

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Comments

A. Introduction and Executive Summary

PPC's members are committed to the reliable operation of their distribution, transmission and generation facilities. They approach reliability seriously and take pride in their records of reliable operation. They support the reliability provisions of the Energy Policy Act of 2005 to protect the security of the wholesale power grid. PPC's members, however, are greatly concerned that the approach the Commission is pursuing in this NOPR will damage system reliability and the efficiency of standards enforcement.

In the NOPR, the Commission proposes to establish a definition of the Bulk Electric System (BES) of national application. "The Commission proposes to direct the ERO to revise, within 90 days of the effective date of a final rule in this proceeding, the ERO's definition of the term 'bulk electric system' to include all electric transmission

facilities with a rating of 100 kV or above.”⁴ The Commission noted its intent to preserve in the proposed definition the current North American Electric Reliability Corporation (NERC) definition’s exclusion of radial facilities “serving only load with one transmission source” and to permit Regional Entities to “identify ‘critical’ facilities, rated at less than the 100 kV, that are subject to mandatory Reliability Standards, without seeking approval from the ERO and the Commission.”⁵ “This proposal would eliminate the discretion provided in the current definition for a Regional Entity to define ‘bulk electric system’ within a region[,]”⁶ and would prohibit any piece of equipment rated at greater than 100 kV from being excluded from the BES without the Commission’s express approval.⁷ PPC respectfully suggests that the BES definition proposed in the NOPR will undermine the reliability of the BES.

In support of that conclusion, PPC’s comments make the following points:

- The proposed definition is a significant change from the NERC definition and will affect many utilities. It will have the effect of expanding the facilities included in the BES and impose costs on utilities without improving BES reliability. The proposed definition has the potential to degrade reliability in some areas.
- Section 215 of the Federal Power Act, which defines FERC’s reliability regulation authority, expressly excludes distribution facilities from the BES. In the West in particular, facilities rated at or above 100 kV are often used for distribution and as a result the proposed definition is impermissibly overbroad.
- FERC should permit regions to develop their own BES definitions and tests for inclusion of facilities in the BES based on the topology of their systems and other

⁴ NOPR at ¶ 15.

⁵ *Id.* at ¶ 19.

⁶ *Id.* at ¶ 16.

⁷ *Id.* at ¶ 18 (“Pursuant to this proposal, the ERO must submit to the Commission for review on a facility-by-facility basis any ERO-approved exception to the proposed threshold that all transmission facilities at 100 kV or above, except for radial transmission facilities serving only load, are subject to compliance with mandatory Reliability Standards.”).

regional considerations. This approach will be more efficient and FERC can audit the process and results to ensure reliable operations.

- Contrary to the Federal Power Act, FERC has ignored the expertise of the regional reliability organizations and NERC and proposes a BES definition that is unjust and unreasonable because it is overbroad and inherently inaccurate.
- The proposed process for reviewing and granting requests for exemptions is unworkable because there are multiple levels of required reviews by organizations that are likely to be unable to process the requests in a timely manner, giving due consideration to each.

PPC appreciates the opportunity to provide comments to the Commission. PPC urges the Commission to permit regions to develop the best BES definitions, tests and processes for their systems, with continued oversight by the Commission.

B. The Proposed BES Definition Would Expand the Scope of the BES Beyond the Current Definition, Increase Costs and Create an Incentive for Under-Building the System

NERC defines the BES as follows:

As defined by the Regional Reliability Organization, the electrical generation resources, transmission lines, interconnections with neighboring systems, and associated equipment, generally operated at voltages of 100 kV or higher. Radial transmission facilities serving only load with one transmission source are generally not included in this definition.⁸

In the NOPR the Commission states that it “do[es] not anticipate that the proposed change [to the BES definition] would affect most entities.”

1. The NOPR’s Proposed Definition Will Greatly Expand the Scope of Facilities Included in the BES

Contrary to the Commission’s belief, the proposed change to the BES definition from “generally operated at 100 kV or higher” to a 100 kV bright-line test will have a

⁸ *Id.* at ¶ 5 (quoting Order No. 693, FERC Stats. & Regs. ¶ 31,242 at ¶ 77) (footnote omitted).

significant impact on the scope of the BES. The Commission’s proposed BES definition is clear that facilities *rated* at 100 kV or greater will be included in the BES.⁹ Currently, the WECC and NERC BES definition includes facilities *operated* at 100 kV or greater. It is relatively common in the WECC for utilities to construct facilities that are capable of being operated at voltages (that is, “rated” at voltages) in excess of the voltages at which they are in fact operated.¹⁰ As a result, the proposed definition would sweep into the definition more facilities than are currently included in the BES and, for reasons stated below, more facilities than is necessary.

More importantly, the change in the definition from “generally” operated at more than 100 kV to a bright-line, when combined with the proposed process for obtaining exceptions, promises to expand the scope of the BES far beyond its current bounds. The NOPR proposes to prohibit RROs from excluding from the BES any piece of equipment rated at greater than 100 kV without the Commission’s express approval.¹¹ Moreover, within the last two months, the Commission has signaled that the intention to assert direct control over reliability matters is not limited to the BES definition but extends to the standards development, review and approval processes.¹² Because it is

⁹ NOPR at ¶ 15.

¹⁰ For example, a utility may construct a line and that is “rated” at 115 kV but is operated at 69 kV because current load is accommodated by that operation at less cost.

¹¹ *Id.* at ¶ 18 (“Pursuant to this proposal, the ERO must submit to the Commission for review on a facility-by-facility basis any ERO-approved exception to the proposed threshold that all transmission facilities at 100 kV or above, except for radial transmission facilities serving only load, are subject to compliance with mandatory Reliability Standards.”).

¹² *Cf.* Order, *Mandatory Reliability Standards for the Bulk Power System*, 130 FERC ¶ 61,218 (Mar. 18, 2010) (the Commission directs NERC to submit a modification to BAL-

common in the West for even small utilities to have multiple points of interconnection with the bulk system, we expect that there would be hundreds of requests for exception from the BPA footprint alone, and thousands in the WECC generally. Under these conditions, the chances appear remote that an applicant for exemption will find a timely hearing for its request for exception at the RRO, NERC or the Commission, whatever the strength of its case may be.

This will especially impact utilities in the West. In material respects the transmission system in the West is fundamentally different than that in the Eastern Interconnection. Much of the West is characterized by sparse, widely distributed load centers of small size. Because a utility's service territory and distribution system may cover an area of over 1,000 square miles, for example, it uses higher voltage facilities to distribute power to multiple small loads. Because of the physical distance, higher voltages are required to move power efficiently even though the facilities are not used

003-0 that is responsive to the Commission's directive in Order No. 693 within six months from the date of issuance of this order); Order, *Mandatory Reliability Standards for Critical Infrastructure Protection*, 130 FERC ¶ 61,211 (Mar. 18, 2010) (the Commission directs NERC to submit a compliance filing modifying 57 sets of Violation Severity Level assignments within 60 days of the issuance of this order); Order, *North American Electric Reliability Corporation*, 130 FERC ¶ 61,203 (Mar. 18, 2010) (the Commission directs the ERO, within 90 days of the date of this order, to submit a filing containing specific proposed modifications to the NERC Standards Development Process designed to ensure that NERC's Rules of Procedure allow it to comply with Commission directives to submit new or modified Reliability Standards; the Commission also directs the ERO, within 90 days after our subsequent order, to fully comply with our previous directive to develop modifications to Reliability Standard FAC-008-1); Order, *Mandatory Reliability Standards for the Bulk Power System*, 130 FERC ¶ 61,200 (Mar. 18, 2010) (the Commission directs NERC to submit a modification to Table I, footnote b of TPL-002-0 that is responsive to the Commission's directive in Order No. 693, by June 30, 2010).

for bulk transmission.¹³ In contrast to the Eastern Interconnection, where bulk transmission generally starts at the 115 kV voltage, bulk transmission in the West generally involves facilities at the 230 kV level and higher. The application of the Commission's proposed definition to these facilities will cause the inclusion of the BES of facilities that are distribution facilities and that electrically cannot affect the reliability of the backbone transmission system.¹⁴

2. The Expansion of the BES Will Significantly Affect Utilities But Will Not Improve, And Is Likely to Damage, System Reliability

The costs of compliance will increase, and costs are already high. PPC conducted an informal survey of its member utilities regarding the amounts they are spending on reliability standard enforcement as measured by expenditures on record-keeping, audit preparation and audit assistance. These are costs that contribute to the ability of WECC and NERC to detect violations and enforce standards, but they are not costs that contribute to system reliability improvements. The survey indicates that these activities are imposing costs on retail customers of approximately 1 mill per megawatt-hour among PPC's registered utilities. This is not a *de minimus* cost for these utilities. For a smaller utility it can be the cost of another lineman or electrician whose addition to the utility would have greater value from a service and reliability standpoint. As facilities are added to the BES by the proposed definition, registered utilities will have to register

¹³ In WECC the bulk transmission system is composed of predominately 230 kV and 500 kV facilities with some 115 kV. The West typically does not use facilities rated between 115 kV and 230 kV.

¹⁴ The comments of the Wyoming Public Service Commission filed in this docket are also instructive in this regard. *Comments of the Wyo. PSC*, RM09-18-000, at p. 2-4 (Apr. 14, 2010).

more equipment and register for more functions. Some currently unregistered utilities will be required to register. As a result, utilities will be required to spend even more money on record-keeping and audit assistance to meet the paperwork requirements of the reliability standards.

We are concerned that application of a hard-and-fast 100 kV test, with extremely restricted ability to obtain an exception, will provide incentives to utilities to avoid building new facilities that can be operated at more than 100 kV. Utilities that can reliably operate their systems by investing in lower-voltage facilities will have clear incentives to do so, even though construction of higher-voltage facilities is the better engineering solution. For example, a utility that operates a system rated at 34.5 kV may want to replace an older section of the system with new 115 kV facilities. This is the voltage that makes sense from an engineering and planning standpoint. A bright-line test such as the NOPR's proposed definition, however, appears to require the utility to register the 115 kV segment as part of the BES and register as a Transmission Owner and Transmission Operator. The line segment rated at 115 kV will only carry the power that the surrounding 34.5 kV system can carry and cannot affect BES reliability. But, rather than gamble on getting an exemption later, the utility may decide to build the new facility at 69 kV.

3. The Commission's Assumptions that Not Many Utilities Will Be Affected by the Proposed Definition and that BES Reliability Will Be Improved Are Incorrect

As noted above, the Commission's belief that most utilities will not be affected is incorrect and the utilities will have to bear the increased costs of having to register for

functions that, in very many cases, will not yield reliability improvements in the BES. The reliability of the overall system can be damaged if utilities take actions that are sound economically, because they do not entail regulatory burden, but are not the best engineering solutions over the long-run. At the other end of the continuum, inclusion of facilities that cannot affect backbone transmission system reliability, however, will not improve the reliability of that system. Rather, it will force system owners to invest limited financial resources and scarce expertise into compliance with record-keeping and reporting requirements. These resources are better directed to compliance with operational, maintenance and other standards that have a meaningful impact on BES reliability.

C. The Commission Should Permit Regions to Develop BES Definitions and Tests for Exceptions to Inclusion of Facilities in the BES

Rather than pursue a definition of national application and a restrictive process that removes decision-making from the RROs, PPC suggests that the Commission permit regions to develop BES definitions and tests for exceptions from the definition that best fit the topology of the systems that they oversee and that comply with statutory directives. The Commission would retain its statutory authority to review and approve those definitions and tests and would retain the ability to audit their application and efficacy.

WECC uses the NERC definition, but has noted that clarification of the application of the definition and exceptions to it would be beneficial. As the NOPR recognizes, WECC has been engaged in a process to clarify the definition for the last 12

months.¹⁵ WECC's process is aimed at determining when facilities operated at greater than 100 kV (or less than 100 kV) should be excluded from the BES because they do not materially impact the reliability of the BES. The proposed WECC definition would provide greater definition exempted radial facilities, the point of demarcation between distribution and transmission facilities, and establish a process and test for the materiality of facilities to BES reliability.¹⁶ The intent of this work is to catalogue the BES in WECC so that the BES is neither over- nor under-inclusive. This will fully protect BES reliability efficiently and without expanding the application of reliability regulations beyond the statute.

These tailored, regional standards would more efficiently achieve the level of BES reliability desired by the Commission than would a definition of national application. Regional definitions are less likely to be over-inclusive of facilities that cannot affect the BES. We encourage the Commission to consider the countervailing incentives outlined in section B of these Comments that undermine the Commission's assertions that a national standard is preferable.¹⁷ Although we understand the Commission's desire for a definition that is simple for it to enforce, national uniformity is not likely to ease the Commission's and reliability organizations' enforcement burden

¹⁵ See WECC-0058 BES Proposal 1, p. 1-2 (May 15, 2009) (available on WECC's website at <http://www.wecc.biz/Standards/Development/BES/default.aspx>).

¹⁶ See the WECC BES Definition Task Force webpage for the latest proposal and related materials (available on WECC's website at <http://www.wecc.biz/Standards/Development/BES/default.aspx>).

¹⁷ We note that the Commission does not provide a logical or reasoned basis for its assertion that a national, uniform definition will improve reliability, as opposed to tailored, regional definitions.

because the over-inclusive nature of the definition will sweep in equipment and facilities that would not otherwise be included in the BES.

We urge the Commission to withdraw the NOPR's proposed BES definition and to permit WECC and other RROs to develop BES definitions and tests for exceptions that meet the needs of their regions and to defer to those organizations' judgment on the propriety of those tests. The Commission has the authority, and will be better able, to audit the RROs' implementation of their definitions to assure that reliability standards for the BES are met.

D. The Over-Breadth, and the Arbitrary Nature, of the Proposed Definition Are Disabling Flaws

1. Contrary to statute, the Commission Fails to Give NERC or RROs Due Deference in Regard to the BES Definition.

Section 215(d)(2) of the Federal Power Act requires the Commission to give due weight and deference to NERC's expertise.

The Commission may approve, by rule or order, a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. *The Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an Interconnection-wide basis with respect to a reliability standard to be applicable within that Interconnection, but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.*¹⁸

¹⁸ Section 215(d)(2), 16 U.S.C. §824o(d)(2) (2006) (emphasis added). The statutory history makes it abundantly clear that Congress intended FERC to defer to the technical expertise of the reliability organizations. In discussing Amendment 3012 to S.517, 107th Cong., the precursor to the enacted reliability provisions in the Energy Policy Act of 2005, Senator Thomas notes as follows:

Both NERC and WECC have provided definitions to the Commission that are, in their expert judgment, superior to the definition proposed in the NOPR. The Commission has not taken account of their expertise in this matter.

The NOPR details what the Commission believes are deficiencies in the BES definition used by one RRO: Northwest Power Coordinating Council (NPCC). PPC does not comment in support of, or against, the Commission's assertions and conclusions with regard to NPCC's actions or the exclusion of certain facilities from the BES in the NPCC area. PPC suggests, however, that the Commission should take up the reform of that organization and should not use NPCC's actions or inactions to impose reforms on the remainder of the country that are not otherwise justified.

2. Adoption of the Proposed BES Definition Is Beyond the Commission's Authority under Section 215 and is Unjust and Unreasonable

The reliability provisions of section 215 the Federal Power Act are intended to give the Commission authority over the level of reliability needed for national electric grid. The purpose of the bill that formed the precedent for section 215 was to protect

Another key problem with the Daschle bill is that it does not recognize regional differences in electrical systems due to the geography, the market design, the economics, and the operational factors. Many fear that FERC does not have the sensitivity to the regional differences that are so critically important, and I suppose you could say particularly in the West, in that the West has moved a little more quickly to this, but the rest of the country will be moving necessarily soon.

Regional differences are best taken into account by those who are closest to the problem and those who understand what needs to be done, and that, unfortunately, is not FERC.

Cong. Rec., S1873 (Mar. 14, 2002).

the reliability of those backbone facilities that carry the bulk of wholesale power from generators and markets to distribution systems.¹⁹ The distinction drawn in the final language of section 215, between the transmission network and distribution facilities, affirms the Congress's intent to limit reliability regulation to the wholesale system and solidifies the demarcation between regulated and unregulated facilities.

Distribution facilities are expressly excluded from the BES, which is subject to reliability regulation.

The term "bulk-power system" means -- (A) facilities and control systems

¹⁹ Cf. statements by sponsors of Amendment 3012 of S. 517, 107th Cong., which was later incorporated in the Energy Policy Act of 2005, which indicate support for this conclusion. The language of the amendment was intended to address the reliability of the interconnected transmission grid and generation facilities because wholesale electric deregulation had created reliability problems. The definition of "bulk-power system" in Amendment 3012, included the "network of interconnected transmission facilities and generating facilities." Cong. Rec., S1873 (Mar. 14, 2002). Further, Sen. Thomas noted that

with the opening of the wholesale power market to competition, our transmission grid is being used in ways in which it has not been used before and, frankly, was not designed to be used.

* * * *

[W]e have merchant generators. And more and more of that will go, where they sell it outside of their distribution area, or indeed, have no distribution area at all.

New system strains are also being created by the dissolution of vertically integrated utilities and by the emergence of new market structures and participants. Cooperation is being replaced with competition.

The result of these changes has been an increase in the number and severity of violations of NERC's voluntary reliability rules.

Cong. Rec., S1873 (Mar. 14, 2002). Distribution facilities were not the concern of NERC's voluntary standards at the time, and the emphasis of the Senators sponsoring the amendment was on protecting the system from very large-area, cascading outages. See *e.g., id.* at S1873-1874.

necessary for operating an interconnected electric energy transmission network (or any portion thereof); and (B) electric energy from generation facilities needed to maintain transmission system reliability. *The term does not include facilities used in the local distribution of electric energy.*²⁰

Clearly, reliability regulation is not to be extended facilities used in “local distribution.”

Not only does the statute expressly exclude distribution facilities from the BES, the regulation of system adequacy is reserved for the states. Section 215 provides the Commission with authority to enact reliability standards for the bulk power system, but although reliability is often understood as a combination of adequacy and security,²¹ section 215 contains a savings clause that explicitly states the Commission is “not authorize[d] to order the construction of additional generation or transmission capacity *or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.*”²² In short, state and municipal utility regulators retain the exclusive authority to determine the adequacy and level of acceptable electric service within their utilities’ distribution systems no matter at what voltage level the distribution system is constructed or operated.²³

²⁰ Section 215(a)(1), 16 U.S.C. § 824o(a)(1) (2006) (emphasis added). It is worth noting that authority is given over the “bulk” system, whether “power” or “electric.”

²¹ See, NERC, *Understanding the Grid: Reliability Terminology*, available at NERC’s website at <http://www.nerc.com/page.php?cid=1|15|122>.

²² 16 U.S.C. § 824o(i)(2) (2006) (emphasis added).

²³ That said, PPC does not assert that a distribution system may escape penalties under reliability standards for disturbances originating in the distribution system are allowed to escape from it to the bulk system. For this reason, the WECC BES definition task force has carefully considered the points of demarcation between the BES and distribution systems. The task force has concluded that, in most cases, the point of demarcation should be a fault-interrupting device. It has further concluded that the owner of the fault interrupting device should, even if the owner is only a distribution utility, be required to report breaker settings and other information to the regional Reliability

Thus, the proposed the bright-line test includes higher-voltage distribution facilities and, therefore, exceeds the Commission's statutory authority. Independent of this conclusion, the inherent over-inclusiveness of the proposed rule is unjust and unreasonable and contrary to statute.²⁴

3. A Bright-Line 100 kV Test Does Not Account for the Function and Impact of Individual Facilities

By statute, a facility used for local distribution is not in the BES and is not subject to the Commission's jurisdiction. Even if these facilities were not automatically excluded, however, they should not be included in the BES to the extent that faults at those facilities would not impact BES reliability. For example, as noted above on pages 6-7 of these Comments, many distribution facilities in the West are rated above 100 kV but serve remote, small loads, the loss of which would have no impact on grid stability or reliability. To include these facilities in the BES is to extend the regulations beyond the boundaries of what properly constitutes the bulk system. The bright-line test is, therefore, inherently inaccurate. Thus, it is unjust and unreasonable and contrary to statute.²⁵

As discussed above, WECC has been developing a test for exclusion of facilities operated at voltage levels above 100 kV in order to deal more precisely with these types

Coordinator or Balancing Authority and to take other measures to ensure that any disturbance in the local distribution system is isolated from the BES through proper operation of fault interrupting devices.

²⁴ Section 215(d)(2), 16 U.S.C. §824o(d)(2) (2006).

²⁵ *Id.*

of facilities.²⁶ The intent of the “Material Impact Assessment,” currently under consideration at WECC, is to determine whether the loss of a facility or piece of equipment has any significant effect on the operation or security of the bulk system. If loss of the equipment or facility does not have a significant affect, it may be excluded from the BES. We encourage the Commission to permit each RRO to implement a test similar to that to determine the appropriateness of an exception for non-distribution facilities.

4. The Proposed Process for Review of Exceptions Is Unworkable

We further suggest that the process the Commission has proposed to determine the merit of claims for exception will have the effect of making exceptions all but impossible to obtain, without reference to the merits of the claim for exception. In this, the Commission has designed a process that is unjust, unreasonable and likely to deny due process.

The Commission proposes that it will be the arbiter regarding all facilities for which an exception is sought.²⁷ PPC believes that the NOPR’s statement, that the Commission must review exceptions on a facility-by-facility basis, masks the fact that

²⁶ The WECC BES Definition Task Force home page can be found on the WECC website at <http://www.wecc.biz/Standards/Development/BES/default.aspx>.

²⁷ NOPR at ¶ 18 (“Pursuant to this proposal, the ERO must submit to the Commission for review on a facility-by-facility basis any ERO-approved exception to the proposed threshold that all transmission facilities at 100 kV or above, except for radial transmission facilities serving only load, are subject to compliance with mandatory Reliability Standards.”). As noted above, the Commission has signaled its intention not only to make all decisions with regard to the scope and content of the BES but also to extend its control over the standards development, review and approval processes. See comments, *supra*, at n. 12.

the exceptions will have to be considered, in very many cases, on an equipment-by-equipment basis. Parts of the transmission system are not susceptible to categorization at a “facility” level, for example some substations, because each facility may contain multiple components rated at different voltages and used for different purposes. The Commission is asking many utilities to file a request for exception for each piece of equipment at the RRO, NERC and the Commission.

With the thousands of requests for exception that the Commission can expect to review, we do not believe that there is a reasonable likelihood of timely, thoughtful review by the RROs, NERC or the Commission. None of the organizations are currently staffed to handle, nor is there a process in place that will permit the timely review, of this volume of claims.

The process promises to be extremely costly and inefficient for claimants, RROs, NERC and the Commission. Overall, the proposed process seems likely to terminate in unreasonable delays and denials of due process and signals a repudiation of the statute’s directive to give due weight to the expertise of regional and national reliability organizations.

E. Conclusion

PPC requests that the Commission refrain from issuing a Final Rule based the proposed BES definition in the NOPR. PPC encourages the Commission to permit RROs to devise impact assessments to inform the application of a BES definition that neither includes facilities used for local distribution nor includes facilities that do not materially impact the BES. PPC also encourages the Commission to make RROs the primary

decision-makers on the inclusion of facilities in the BES and to give due weight to their expertise in the local matters that inform the impact of those facilities on the BES.

DATED this 10th day of May 2010.

Respectfully submitted,

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