

25, 2005, and additional numbering added October 3, 2005); and

(7) Inadvertent Interchange Payback (WEQ-007, Version 000, January 15, 2005, with minor corrections applied March 25, 2005, and additional numbering added October 3, 2005).

(b) This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of these standards may be obtained from the North American Energy Standards Board, 1301 Fannin, Suite 2350, Houston, TX 77002. Copies may be inspected at the Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426 and at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

**PART 39—RULES CONCERNING  
CERTIFICATION OF THE ELECTRIC  
RELIABILITY ORGANIZATION;  
AND PROCEDURES FOR THE ES-  
TABLISHMENT, APPROVAL, AND  
ENFORCEMENT OF ELECTRIC RE-  
LIABILITY STANDARDS**

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**§ 39.1 Definitions.**

As used in this part:

*Bulk-Power System* means facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof), and electric energy from generating facilities needed to maintain transmission system reliability. The term does not include facilities used in the local distribution of electric energy.

*Cross-Border Regional Entity* means a Regional Entity that encompasses a part of the United States and a part of Canada or Mexico.

*Cybersecurity Incident* means a malicious act or suspicious event that disrupts, or was an attempt to disrupt, the operation of those programmable electronic devices and communications networks including hardware, software and data that are essential to the Reliable Operation of the Bulk-Power System.

*Electric Reliability Organization* or “ERO” means the organization certified by the Commission under § 39.3 the purpose of which is to establish and enforce Reliability Standards for the Bulk-Power System, subject to Commission review.

*Electric Reliability Organization Rule* means, for purposes of this part, the bylaws, a rule of procedure or other organizational rule or protocol of the Electric Reliability Organization.

*Interconnection* means a geographic area in which the operation of Bulk-Power System components is synchronized such that the failure of one or more of such components may adversely affect the ability of the operators of other components within the system to maintain Reliable Operation of the facilities within their control.

*Regional Advisory Body* means an entity established upon petition to the Commission pursuant to section 215(j) of the Federal Power Act that is organized to advise the Electric Reliability Organization, a Regional Entity, or the Commission regarding certain matters in accordance with § 39.13.

*Regional Entity* means an entity having enforcement authority pursuant to § 39.8.

*Regional Entity Rule* means, for purposes of this part, the bylaws, a rule of

procedure or other organizational rule or protocol of a Regional Entity.

*Reliability Standard* means a requirement approved by the Commission under section 215 of the Federal Power Act, to provide for Reliable Operation of the Bulk-Power System. The term includes requirements for the operation of existing Bulk-Power System facilities, including cybersecurity protection, and the design of planned additions or modifications to such facilities to the extent necessary to provide for Reliable Operation of the Bulk-Power System, but the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.

*Reliable Operation* means operating the elements of the Bulk-Power System within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance, including a Cybersecurity Incident, or unanticipated failure of system elements.

*Transmission Organization* means a regional transmission organization, independent system operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

### § 39.2 Jurisdiction and applicability.

(a) Within the United States (other than Alaska and Hawaii), the Electric Reliability Organization, any Regional Entities, and all users, owners and operators of the Bulk-Power System, including but not limited to entities described in section 201(f) of the Federal Power Act, shall be subject to the jurisdiction of the Commission for the purposes of approving Reliability Standards established under section 215 of the Federal Power Act and enforcing compliance with section 215 of the Federal Power Act.

(b) All entities subject to the Commission's reliability jurisdiction under paragraph (a) of this section shall comply with applicable Reliability Standards, the Commission's regulations, and applicable Electric Reliability Organization and Regional Entity Rules made effective under this part.

(c) Each user, owner and operator of the Bulk-Power System within the United States (other than Alaska and Hawaii) shall register with the Electric Reliability Organization and the Regional Entity for each region within which it uses, owns or operates Bulk-Power System facilities, in such manner as prescribed in the Rules of the Electric Reliability Organization and each applicable Regional Entity.

(d) Each user, owner or operator of the Bulk-Power System within the United States (other than Alaska and Hawaii) shall provide the Commission, the Electric Reliability Organization and the applicable Regional Entity such information as is necessary to implement section 215 of the Federal Power Act as determined by the Commission and set out in the Rules of the Electric Reliability Organization and each applicable Regional Entity. The Electric Reliability Organization and each Regional Entity shall provide the Commission such information as is necessary to implement section 215 of the Federal Power Act.

### § 39.3 Electric Reliability Organization certification.

(a) Any person may submit an application to the Commission for certification as the Electric Reliability Organization no later than April 4, 2006. Such application shall comply with the requirements for filings in proceedings before the Commission in part 385 of this chapter.

(b) After notice and an opportunity for public comment, the Commission may certify one such applicant as an Electric Reliability Organization, if the Commission determines such applicant:

(1) Has the ability to develop and enforce, subject to § 39.7, Reliability Standards that provide for an adequate level of reliability of the Bulk-Power System, and

(2) Has established rules that:

(i) Assure its independence of users, owners and operators of the Bulk-Power System while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any Electric Reliability Organization committee or subordinate organizational structure;