Good afternoon.

Below are NPCC’s Comments to NERC’s Proposed Changes to its Rules of Procedure for Compliance filing in Response to Order 733 - Section 1700 Challenges to Determinations.

NERC’s Proposed Changes to its Rules of Procedure for Compliance Filing in Response to Order No. 733

Section 1700- Challenges to Determinations

PROPOSED NEW SECTION FOR NERC RULES OF PROCEDURE
[DRAFT January 18, 2011]

SECTION 1700 — CHALLENGES TO DETERMINATIONS

1701. Scope of Authority
Whenever a Reliability Standard or term defined in the Glossary of Terms Used in NERC Reliability Standards provides a Registered Entity with the opportunity to challenge a determination made pursuant to the Reliability Standard or Defined Term, this Section 1700 shall set forth the process to be followed.

Propose deleting. This section does not need a general reference to the “Glossary of Terms.” A statement about “Scope of Authority” in Section 1700 should be limited to addressing Registered Entities challenges to determinations made by Planning Coordinators as may be applicable under PRC-023 only. Suggest using 1702.1 for 1701.

1702. Challenges to Determinations by Planning Coordinators Under Reliability Standard PRC-023

1. This Rule 1702 establishes the procedures to be followed when a Registered Entity wishes to challenge a determination by a Planning Coordinator following the Planning Coordinator’s application of the test adopted in Attachment B of PRC-023 to determine the circuits in its Planning Coordinator area for which Registered Entities must comply with the standard.
Suggest moving this section (1702.1) to 1701 to establish the “Scope of Authority” and replace with the following:

1. Establishment of processes to challenge Planning Coordinator determinations
   a. A Planning Coordinator shall establish the process for Registered Entities to submit a formal written challenge a determination made by the Planning Coordinator per PRC-023.
   b. A Registered Entity shall follow the process established by the Planning Coordinator to register formally its request to challenge the determination, per these Rules of Procedure.

This type of provision is needed so that there is no confusion about whether or not the Registered Entity has provided proper notice to the Planning Coordinator of its intent to challenge the determination. Without following established procedures, there may be questions about whether the notice of the challenge was properly presented to the right personnel at the Planning Coordinator.

2. Within 30 days of receiving a written request from a Registered Entity in accordance with 1702.1, a Planning Coordinator shall provide the Registered Entity with a written explanation of the basis for its determination under Attachment B of PRC-023, unless the Planning Coordinator provided the basis of its determination when it originally informed the Registered Entity of its determination. Planning Coordinators and Registered Entities are encouraged to meet informally to resolve any differences.

This language is not enforceable and does not describe a “process” step. It should not be included in the Rules of Procedure.

3. A Registered Entity may challenge the determination of the Planning Coordinator by filing with the appropriate Regional Entity and the Planning Coordinator, within 60 days of receiving the written explanation, its objection, the written explanation from the Planning Coordinator, and the Registered Entity’s supporting documents and reasons. The challenge may only raise issues that were first presented to and discussed with the Planning Coordinator.

4. The Regional Entity shall issue its decision within 90 days after it receives the filing. The Regional Entity may convene a meeting of the involved entities and may request additional information.

5. Any entity aggrieved by the decision of the Regional Entity may, within 30 days of the decision, file an appeal with NERC, with copies to the Regional Entity and the Planning Coordinator or Registered Entity. The appeal shall state the basis of the objection to the decision of the Regional Entity and shall include the Regional Entity decision, the written explanation of the Planning Coordinator, and the documents and reasoning filed by the Registered Entity with the Regional Entity in support of its objection.

6. A panel appointed by the NERC Board of Trustees for that purpose shall decide the appeal within 90 days. The panel shall consist of at least three appointees, one of whom must be a member of the NERC staff, who are knowledgeable about PRC-023 and transmission planning and do not have a direct financial or business interest in the outcome of the appeal. The panel may request additional information from the parties.
Regarding the preceding highlighted section, better language is needed to establish qualification. Perhaps make reference to degrees needed? Isn’t this assured by virtue of the fact that the personnel are coming from NERC?

7. Any party aggrieved by the decision of the panel may request that the NERC Board of Trustees review the decision by filing its request for review and a statement of reasons with NERC’s Chief Reliability Officer within 14 days of the panel decision. The Board of Trustees may, in its discretion, decline to review the decision of the panel, in which case the decision of the panel shall be the final NERC decision, subject only to an appeal to the applicable governmental authority filed within 21 days of the Board’s determination.

8. Interested parties are encouraged to resolve any disagreements informally, and the involved parties may make use of alternative dispute resolution procedures at any time during the course of the matter.