Administrative Hearing Process
Training Schedule

Judge Robert Wax's schedule

Unavailable:

- August 1-10
- September 25-Oct. 4
- October 19-23
- November 2-6

Suggested dates: Oct. 5 or 6, 2009

Potential Hearing Body/Panel Training for Southwest Power Pool Reliability Standards Hearings

Allison Hayes, Regional Entity Counsel at SPP, asked me to provide a description of the hearing body/panel training I did with NERC's Compliance and Certification Committee and the NPCC Compliance Committee in December 2008, and potentially how those programs could be adapted to SPP. She also requested related information, all of which is presented below.

The Essentials of Such a Session

Both training sessions (NERC in St. Louis, MO and NPCC in West Palm Beach, FL) covered very similar overall topics. The NERC program consumed about two and one half hours and the NPCC session was two hours. Both programs were interactive between the presenter and the audience, with a 20-25 page power point presentation of by R. Wax (see below for qualifications) and discussion of accumulated, distributed materials.

Each program was modified to address the unique circumstances of each entity's hearing roles. But, overall, the following topics were covered:

1. The applicable hearing rules and the three types of hearings (general, shortened, and remedial action directive—with discussion of varying procedures in each etc)
2. The initiation and commencement of a case
3. Role of the hearing body /panel in the hearing process
4. Role of the hearing officer and the his/her relationship with the hearing body/panel
5. The pre-hearing conference with the litigants(including role of the hearing officer and the hearing panel/body)
6. Events after the pre-hearing and before hearings (discovery; legal motions; protective orders; status conferences; and interlocutory review of rulings to hearing panel/body)
7. The hearings themselves (detailed process discussion of: witness presentation; direct, cross and redirect examination by counsel; opening and closing statements; evidentiary rulings; and questioning of witnesses by the panel/body)
8. The special timing and challenge aspects of the remedial action directive and the shortened hearing process

9. Events after hearings (briefing; oral argument; hearing officer development of initial decision; the legal decisional framework; and the role of panel/body at this stage)

10. Events after the initial decision (briefs on exception; panel/body deliberations and final order issuance; and appeals to NERC and FERC etc.)

Adaptation to SPP

The NPCC presentation (which was adapted from that at NERC, and earlier presentations on the subject at MRO and Reliability*First*-RFC) could be easily adapted to the SPP situation, with very minimal work. And, a similar two-hour presentation and interactive dialogue could be produced readily.

Presenter Background

As further detailed in his bio/resume, Bob Wax is an experienced neutral arbitrator, mediator, and hearing officer, with 35 years of legal experience in the electric industry. He is presently a contracted hearing officer for reliability standards cases at 6 of the 8 regional entities (MRO, NPCC, RFC, SERC, SPP-contract pending); FRCC and NERC. He was the hearing officer in the only proceeding to date in the NERC and Regional entity reliability regime (a Fall 2008 confidential NERC remedial action directive case). In addition to the recent trainings on hearings at NERC and NPCC, he was a participant presenter in related trainings at RFC last summer, and anticipates conducting similar trainings at other Regional Entities in 2009. He also organized and conducted a "mock hearing" at NPCC in Fall 2007. In addition, he moderated and participated in programs in 2008 on the reliability standards hearing process at the Edison Electric Institute Legal Committee and at the Energy Bar Association

Projected Cost for SPP Training

Because nearly all of the materials (power point and documents) preparation was done already for NPCC and NERC (at their expense), it could be easily adapted to SPP for very modest cost. (I should note that both NPCC and NERC have given advance permission for such adaptation). I would charge SPP for modest preparation time, and the actual training session, at the hourly rate in my pending hearing officer contract with SPP ($450 per hour). I also would charge travel time at ½ of that rate, per that contract with SPP. Based on the NPCC experience (with less travel than would be involved with SPP), I would anticipate the total cost of the SPP training would be in the range of $4,000. The final cost could be discussed, of course, once SPP decided exactly how it wanted to proceed, and what it precisely wanted covered.

Robert P. Wax

January 9, 2009