ATTACHMENT 5

David W. Hilt
Vice President and Director of Compliance

NERC
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

Monday, June 15, 2009

Matthew L. Wade
General Counsel – Lubbock Power & Light
1301 Broadway
Lubbock, Texas 79401

Lubbock Power & Light, RA080006

Dear Mr. Wade:

Enclosed is the decision of the NERC Board of Trustees Compliance Committee on the appeal of Lubbock Power & Light regarding its inclusion on the NERC Compliance Registry within the Southwest Power Pool Region for the function of Transmission Owner.

Lubbock Power & Light has the right to file an appeal of this ruling with the Federal Energy Regulatory Commission within 21 days of the issuance of this decision, as specified in Rule 501.1.3.4 of NERC's *Rules of Procedure*.

Sincerely,

David W. Hilt
Vice President and Director of Compliance

Enclosure

cc: Ronald Ciesiel, Executive Director of Compliance, Southwest Power Pool
Stacy Dochoda, General Manager, Southwest Power Pool
Alison Hayes, Regional Entity Counsel, Southwest Power Pool
Gary Zheng, Chief Executive Officer, Lubbock Power & Light
Dale Stephens, Electric Distribution Superintendent, Lubbock Power & Light
Craig Lawrence, Manager of Organization Registration and Certification, NERC
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NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

Board of Trustees Compliance Committee
Decision on Appeal of Compliance Registry Determination
(Issued June 15, 2009)

In this decision, the NERC Board of Trustees Compliance Committee affirms the decision of the Southwest Power Pool Regional Entity (SPP RE) region to include Lubbock Power & Light (LP&L) on the NERC Compliance Registry as a Transmission Owner (TO).

Statement of Appeal

On February 27, 2009, LP&L[1] filed an appeal of its inclusion by SPP RE on the NERC Compliance Registry for the function of TO.

LP&L is the municipally owned electric utility of the City of Lubbock, Texas. LP&L also is currently registered on the NERC Compliance Registry as a Distribution Provider (DP) and a Load-Serving Entity (LSE), and is connected to the Southwestern Public Service system (SPS), a division of Xcel Energy.[2] LP&L's registration as a DP and LSE are not at issue here.

LP&L is a full requirements wholesale customer of SPS and as such is connected to SPS via four 230 kV transmission interconnection tie line elements that are owned by LP&L totaling 8.45 miles in length.[3] The interconnection tie lines are owned and operated by LP&L and are strategically located around the City of Lubbock.[4] These tie lines give LP&L "the advantage of purchasing power 'off-system,' providing additional power for [LP&L's] customers if needed. Each interchange is capable of importing up to 100 MVA."[5] These lines interconnect LP&L substation facilities, 230/69kV transformers, to the transmission grid of SPS. The tie lines operate at 230 kV and once the lines enter LP&L's substation, the tie lines are immediately stepped down to 69 kV. LP&L distribution system is operated at 69 kV, contains approximately 250 megawatts (MW) of generating capacity and has a peak system load of approximately 380 MW.[6] Of the 69 kV power lines, 27.49 miles have been constructed for operation at 115 kV. When system load dictates, these lines will be converted to 115 kV and provide an additional 250% of transmission capacity as a result of the increased voltage.[7]

[1] http://lpandl.ci.lubbock.tx.us/
[2] *See* Lubbock Power & Light Appeal of February 27, 2009 (LP&L Appeal) at 1.
[3] http://lpandl.ci.lubbock.tx.us/lplresource.htm. *See also* LP&L Appeal at 1. NERC notes that on LP&L's website it states that the "interconnections are tied to LP&L through 8.45 miles of 230 kV transmission lines;" however, in its appeal, LP&L states that the tie lines "total a distance of less than eight (8) miles."
[4] http://lpandl.ci.lubbock.tx.us/lplresource.htm
[5] *Id.*
[6] SPP RE Assessment at 2.
[7] http://lpandl.ci.lubbock.tx.us/lplresource.htm

Rule

Rule 501.1.2.5 of NERC's *Rules of Procedure* states that an entity directly connected to the bulk power system (BPS) selling, purchasing, or transmitting electric energy over the BPS will generally be considered a user of the BPS, unless the entity's actions or facilities have no material impact on the BPS. Rule 501.1.2.2 states that all "electrical generation resources, transmission lines, interconnections with neighboring systems, and associated equipment, generally operated at voltages of 100 kV or higher will be considered part of the bulk power system." Rule 501.1.4 further provides that "[f]or all geographical or electrical areas of the bulk power system, the registration process shall ensure that (1) no areas are lacking any entities to perform the duties and tasks identified in and required by the reliability standards to the fullest extent practical, and (2) there is no duplication of such coverage or of required oversight of such coverage."

Additionally, NERC maintains a Compliance Registry of the provisions in the NERC *Statement of Compliance Registry Criteria (Rev. 5.0)* that apply to this case are section III.d.1 "An entity that owns/operates an integrated transmission element associated with the bulk power system 100 kV and above, or lower voltage as defined by the Regional Entity necessary to provide for the reliable operation of the interconnected transmission grid" and section III.d.2 "An entity that owns/operates a transmission element below 100 kV associated with a facility that is included on a critical facilities list that is defined by the Regional Entity."

Section II of the NERC *Statement of Compliance Registry Criteria (Rev. 5.0)* defines a TO as an "entity that owns and maintains transmission facilities."

Additionally, the NERC *Statement of Compliance Registry Criteria (Rev. 5.0)* provides that any "entity reasonably deemed material to the reliability of the bulk power system will be registered, irrespective of other considerations."

Procedures

On February 27, 2009, as supplemented on March 13, 2009, LP&L filed an appeal of its TO registration in the SPP RE Region (LP&L Appeal). On March 23, 2009, SPP RE provided its detailed basis for including LP&L on the NERC Compliance Registry (SPP RE Assessment). On June 10, 2009, the NERC Board of Trustees Compliance Committee considered the appeal filed by LP&L and the SPP RE Assessment, in accordance with the provisions of Rule 501 of the NERC *Rules of Procedure*.

Statement of Facts

SPP RE registered LP&L for the function of TO within its footprint. SPP RE registered LP&L as a TO pursuant to the criteria set forth in the NERC *Statement of Compliance Registry Criteria (Rev. 5.0)* in Sections III.d.1 and the definition of TO, which are set forth above. In its appeal, LP&L seeks to exempt itself as a TO on the NERC Compliance Registry.

Analysis

While LP&L recognizes that it owns and operates four transmission lines operated at 230 kV, LP&L argues that it should not be registered as a TO because:[8] (1) LP&L should not be registered per NERC's registration criteria because (a) its lines are not *integrated* transmission elements, (b) its tie lines are not necessary for the reliable operation of the *interconnected* transmission grid of SPS and (c) its distribution network operates at 69 kV; and (2) it cannot materially affect the reliability of the BPS because its peak load is less than SPS' most severe contingency, and export of energy is precluded due to transformers [impedance], citing a letter from an SPP Transmission Control Center manager.

After review and consideration of the arguments advanced by LP&L and the SPP RE Assessment, the NERC Board of Trustees Compliance Committee has determined that LP&L is properly registered in the SPP RE region as a TO. There are two categories of arguments raised by LP&L. First, LP&L objects to its registration as a TO on the grounds that it does not meet the criteria. Second, LP&L objects to being subject to the TO reliability standards, on the grounds that it cannot affect the reliability of the BPS. These arguments do not support removal of LP&L as a TO from the NERC Compliance Registry. Each is addressed in turn below.

1. **LP&L meets the criteria for registration as a TO.**

LP&L states that it should not be registered as TO because it does not meet the NERC *Statement of Compliance Registry Criteria*. LP&L argues that it does not own an "integrated transmission element associated with the bulk power system." LP&L uses the four tie lines to connect to the SPS system for the sole purpose of being a full requirement wholesale customer. According to LP&L, while it can receive energy from SPS at 230 kV, it cannot transmit any energy to SPS at a voltage higher than 69 kV due to the transformers at the substation.[9] The transformers used to step down the voltage from 230 kV to 69 kV are located at LP&L's end of the tie line instead of SPS' end of the tie line.

The TO reliability standards apply to owners of transmission facilities. According to the FERC-approved NERC *Statement of Compliance Registry Criteria (Revision 5.0)*, a TO is "The entity that owns and maintains transmission facilities." Section III.d.1 states that a TO is "An entity that owns/operates an integrated transmission element associated with the bulk power system 100 kV and above, or lower voltage as defined by the Regional Entity necessary to provide for the reliable operation of the interconnected transmission grid."

Thus, to be a TO, LP&L must own transmission facilities. Specifically, to meet the requirements of Section III.d.1 of the criteria, LP&L must own an integrated transmission element associated with the BPS 100 kV and above. Certain requirements of the approved reliability standards apply to TOs including the requirement to maintain proper clearances around transmission facilities from vegetation in accordance with reliability standard FAC-003, for example.

[8] LP&L Appeal at 1-3.
[9] *Id*. at 2.

By its own admissions, LP&L meets these requirements. First, LP&L admits that its interconnection facilities, which connect to the SPS BPS, are transmission facilities that are rated at 230 kV. In addition, on its own web site, LP&L admits that it owns other lines (the 69 kV lines) that can be energized up to 115 kV.[10] Moreover, LP&L admits that these lines can be used to import off-system power for the benefit of its customers.[11] There is no requirement that they also be used "to send energy at 230 kV" to SPS.[12]

The length of the lines, all approximately less than eight miles,[13] also does not alter this conclusion. Regarding LP&L's reliance on the fact that SPS owns and operates one end of the tie line, SPP RE makes clear that there are no requirements that a transmission line be wholly owned by a single entity before it is declared a bulk power system element. In addition, it is common for multiple entities to own segments of transmission lines and when the ownership is clearly divisible, the individual owners must be registered as a TO, if the transmission line meets the other attributes of a bulk power system line.[14]

Despite LP&L's arguments to the contrary, the four 230 kV transmission lines are integrated transmission elements associated with the BPS 100 kV and above. The fact that its distribution system operates at 69 kV and that the 230 kV transmission lines are stepped down to 69 kV is irrelevant and do not change this result. SPP RE also properly recognizes that if the transformers were located at the SPS substation and the tie line extensions were made at 69 kV the segments in question would not be part of the bulk power system. However, as SPP RE correctly notes, the lines were extended from the SPS substation to LP&L and the lines are operated at 230 kV, not 69 kV. Because of the four tie lines, LP&L must be registered.

In addition, the committee agrees with SPP RE's determination that the transmission lines do not qualify for the radial line exclusion from the bulk electric system definition, because: (1) the lines do not serve 'only load,' given that there is approximately 250 MW of generation supported by the LP&L system; (2) the load served by LP&L has more than one transmission source and LP&L uses the 230 kV lines to import energy for its customers; (3) the four transmission lines are required to be in the compliance program through the applicability of the vegetation management standard [FAC-003], with which only TOs must comply; and (4) LP&L has not transferred compliance responsibilities to a third party registered in SPP RE as a TO by written agreement.[15]

2. LP&L can materially affect the reliability of the BPS by virtue of its 230 kV transmission lines.

In LP&L's appeal, LP&L states that in order to be a full requirement wholesale customer of SPS, SPS required that LP&L's system cannot have a material impact on the BPS. Accordingly, LP&L had the responsibility to own and maintain the transmission lines exiting SPS'

[10] http://lpandl.ci.lubbock.tx.us/lplresource.htm
[11] http://lpandl.ci.lubbock.tx.us/lplresource.htm
[12] Lubbock Appeal at 2.
[13] *See supra* n.3.
[14] SPP RE Assessment at 3-4.
[15] *Id*. at 3.

substation.[16] LP&L goes on to state there are no other interconnections to these four tie lines and that the lines are not part of any other system.

LP&L states that it cannot affect the reliability of the BPS, because LP&L's total peak load is less than SPS' single most severe contingency; the total loss of LP&L's system would not materially impact SPS. Therefore, LP&L believes that if the total loss of their system would not have a material impact on SPS' system, it cannot have a material impact on the bulk power system.[17]

LP&L states that if its system were to lose all of its load, this would not have a material impact on the bulk power system. However, SPP RE states in its assessment that LP&L failed to discuss or analyze the fact that its integrated 69 kV system supports approximately 250 MW of generation that is claimed by SPS on the EIA 411 data submittal form and that is modeled in the SPP RE power flow systems. Due to the integrated nature of the system, a failure of one or more of the 230 KV lines feeding the various LP&L substations would have an impact on the bulk power system by shifting load to other sections of the bulk power system.[18] Further, to consider such loads and generation in isolation as opposed to integrated with the other loads and generations on the BPS, is inappropriate.

SPP RE's assessment of this point concludes "loss of load" is not the only consideration for materiality. SPP RE states that a loss of one or more of the interconnected 230 kV tie line would result in load flow shifting to the remaining tie lines. This clearly shows the integrated nature of these tie lines and their necessity for the reliable operation of the interconnection of LP&L, not SPS.

Finally, LP&L cites a letter from an SPS manager who refers to having looked at LP&L tie line operation and relay coordination (looking toward LP&L system from SPS) and seeing "no impacts that would cause us concern." Furthermore, he states system flow thru is "very unlikely" because of the high impedance of the four LP&L 230/69kV transformers. However, these claims are unsubstantiated by analysis or any documented review of the protective relay scheme.

[16] LP&L Appeal at 1-2.
[17] *Id*. at 2.
[18] SPP RE Assessment at 4.

Conclusion

The NERC Board of Trustees Compliance Committee finds that LP&L is properly included on NERC's Compliance Registry as a TO. LP&L has the right to file an appeal of this ruling with the Federal Energy Regulatory Commission, in accordance with 18 C.F.R. Part 385, within 21 days of the issuance of this decision, as specified in Rule 501.1.3.4 of NERC's *Rules of Procedure*, and LP&L is a user and owner of the Bulk Power System because it owns and maintains BPS Transmission facilities, therefore meets the registration criteria for TO. The NERC Board of Trustees Compliance Committee denies LP&L's request for removal of TO status from the NERC Compliance Registry.

The Committee notes that SPP RE has not also registered LP&L as a Transmission Operator (TOP) with respect to these facilities. Therefore, the Committee directs SPP RE to evaluate whether LP&L or another entity should be registered as a TOP for these facilities. SPP RE should report back to the Committee on this issue within forty-five days of receipt of the decision.

By the Board of Trustees Compliance Committee