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SECRETARY OF THE  
COMMISSION  
2010 DEC 27 P 4:15  
FEDERAL ENERGY  
REGULATORY COMMISSION

**VIA PAPER FILING**

Honorable Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

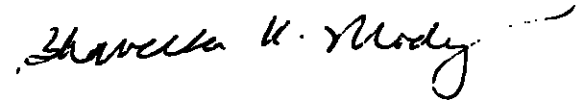
**Re: Commission Information Collection Activities (FERC-725B);  
Comment Request; Extension, Docket No. IC11-725B-000**

Dear Secretary Bose:

Pursuant to the filing instructions in the Federal Energy Regulatory Commission's October 19, 2010 Notice, please find enclosed for filing an original and 14 copies of the Comments of the Transmission Agency of Northern California in the above-captioned proceeding.

Please contact the undersigned at (202) 467-6370 if you have any questions regarding the enclosed submission.

Very truly yours,

A handwritten signature in black ink, appearing to read "Bhaveta K. Mody", with a stylized flourish at the end.

Michael Postar  
Bhaveta K. Mody  
Kristen Connolly McCullough

*Special Counsel to the  
Transmission Agency of Northern California*

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

<b>Commission Information Collection</b>	)	<b>Docket No. IC11-725B-000</b>
<b>Activities (FERC-725B); Comment</b>	)	
<b>Request; Extension</b>	)	

**COMMENTS OF THE  
TRANSMISSION AGENCY OF NORTHERN CALIFORNIA**

The Transmission Agency of Northern California ("TANC") respectfully tenders for filing with the Federal Energy Regulatory Commission ("Commission" or "FERC") its Comments in response to the October 19, 2010 Commission Information Collection Activities; Comment Request; Extension ("Information Collection Extension Request").<sup>1</sup> In support thereof, TANC, as a registered Transmission Owner and Transmission Service Provider on the North American Electric Reliability Corporation's ("NERC") Compliance Registry and an entity subject to the Information Collection Extension Request, states as follows:

**I. RELEVANT BACKGROUND**

1. The Energy Policy Act of 2005 established a new Section 215 of the Federal Power Act providing for a system of mandatory and enforceable Reliability Standards for the Bulk-Power System of the United States.<sup>2</sup> On July 20, 2006, the

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<sup>1</sup> *Commission Information Collection Activities (FERC-725B); Comment Request; Extension*, Docket No. IC11-725B-000, 75 Fed. Reg. 65,618 (October 26, 2010).

<sup>2</sup> The Energy Policy Act of 2005, Pub. L. No 109-58, Title XII, Subtitle A, 119 Stat. 594, 941 (2005), 16 U.S.C. 824o (West Supp. 2007). In order to implement the new Section 215, the Commission initiated a rulemaking docket, *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards*, Order No. 672, 114 FERC ¶ 61,104, 71 Fed. Reg. 8,662 (Feb. 17,

Commission certified NERC as the Electric Reliability Organization (“ERO”) of the Bulk-Power System responsible for developing and enforcing compliance with Reliability Standards that provide for the reliable operation of the Bulk-Power System.<sup>3</sup>

2. On January 18, 2008, the Commission issued Order No. 706,<sup>4</sup> approving eight Critical Infrastructure Protection (“CIP”) Reliability Standards submitted by NERC for approval.

3. On October 19, 2010, the Commission issued the Information Collection Extension Request, in Docket No. IC11-725B-000. The Commission’s issuance seeks public comment on the proposed information collection extension regarding information collected by the FERC-725B, Reliability Standards for Critical Infrastructure Protection (OMB Control No. 1902-0248). *Information Collection Extension Request* at 2. According to the Commission, the information collected by FERC-725B is required to implement the statutory provisions of section 215 of the Federal Power Act, and, more specifically, the Commission-approved CIP Reliability Standards. *Id.* at 2-4. The Information Collection Extension Request seeks a three-year extension of the FERC-725B reporting requirements, with no changes. *Id.* at 4.

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2006), FERC Stats. & Regs. ¶ 31,204 (2006), *order on reh’g*, Order No. 672-A, 114 FERC ¶ 61,328, 71 Fed. Reg. 19,814 (Apr. 18, 2006), FERC Stats. & Regs. ¶ 31,212 (2006).

<sup>3</sup> *Order Certifying North American Electric Reliability Corporation as the Electric Reliability Organization and Ordering Compliance Filing*, 116 FERC ¶ 61,062 (2006), *order on reh’g and compliance*, 117 FERC ¶ 61,126 (2006).

<sup>4</sup> *Mandatory Reliability Standards for Critical Infrastructure Protection*, Order No. 706, 122 FERC ¶ 61,040 (2008), *order on clarification*, Order No. 706-A, 123 FERC ¶ 61,174 (2008), *order on clarification*, Order No. 706-B, 126 FERC ¶ 61,229 (2009).

4. On October 26, 2010, the Commission's Information Collection Extension Request was published in the *Federal Register* establishing December 27, 2010 as the date by which comments on the Information Collection Extension Request are due. TANC's Comments are timely submitted in accordance with the Information Collection Extension Request and the publication in the *Federal Register*.

## II. TANC'S COMMENTS

5. Among other things, the Commission invites comments on "the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used." *Id.* at 7. The Information Collection Extension Request estimates that each CIP audit or spot check would require four individuals six weeks to prepare and demonstrate compliance with CIP standards for entities that have identified Critical Cyber Assets. *Id.* at 5 n.7. For entities that do not have Critical Cyber Assets, the Information Collection Extension Request indicates an estimate of one individual approximately three days to demonstrate compliance with CIP-002, which is the gatekeeper for the remaining CIP standards. *Id.*

6. A flaw in the Commission's estimate of the burden is that it assumes entities are only preparing to demonstrate compliance as part of a CIP audit or spot check. While such events occur only once every three or six years depending on an entity's functional registration, it is common for most entities to review their compliance with the CIP standards at least twice per year or even more depending on an entity's compliance program. Among other reasons, such reviews may be prompted by: (1) the semi-annual obligations to self-certify compliance to their respective Regional Entities; (2) the effective date of a new CIP standard (e.g., Versions 1, 2 and 3 of CIP-002 through

CIP-009 were each in effect for various periods of three to six months during 2010); or  
(3) a periodic review schedule as dictated by an entity's internal compliance program.

7. The Commission strongly encourages entities to adopt a culture of compliance and the industry has taken notice. Through the implementation of TANC's own compliance program, TANC understands this culture to mean that compliance is rigorously monitored internally and potential violations are self-reported, rather than waiting every three to six years to prepare to demonstrate compliance. As such, the Information Collection Extension Request has significantly underestimated the overall scope of activities associated with each entity's CIP compliance activities.

8. The Commission's estimate also neglects to recognize the amount of time and resources required to demonstrate compliance. For example, the Commission estimates that entities without Critical Cyber Assets would require the efforts of "one individual approximately three days" over a three-year period at an average hourly rate of \$96.00. *Id.* at 5, n.7-6. This estimated level of effort significantly diminishes the importance of reliability compliance activities by registered entities, and fails to adequately acknowledge the potential consequences associated with non-compliance.

9. Furthermore, it is apparent that the Commission does not consider that entities without Critical Cyber Assets often utilize the efforts of several qualified people to demonstrate compliance with "CIP-002-3, Cyber Security – Critical Cyber Asset Identification," the standard by which Critical Cyber Assets are identified. This standard requires that the entity:

- Identify and document a risk-based assessment methodology to use to identify its Critical Assets (R1):

- Develop a list of its identified Critical Assets determined through an annual application of the risk-based assessment methodology, reviewing this list annually and updating it as necessary (R2);
- Develop a list of Critical Cyber Assets essential to the operation of any identified Critical Assets, reviewing this list annually and updating it as necessary (R3); and
- Gain senior manager approval of the risk-based assessment methodology, the list of Critical Assets and the list of Critical Cyber Assets, at least annually (R4).

10. Rather than depending on one individual for one day per year, it is TANC's understanding that entities implement a culture of compliance by forming a small but qualified team to conduct the activities required by this standard. In addition to this, the results of this team's efforts are then required to be presented to management prior to gaining senior manager approval. When considering the nature of this effort, TANC contends the actual cost for CIP compliance, even for entities without Critical Cyber Assets is at least ten times the Commission's estimated annual burden of \$768.00 (i.e., 8 hours at \$96.00 per hour)

11. TANC has participated in numerous regulatory and industry proceedings, workshops, and other events regarding reliability standards compliance since early 2007, and has prepared materials for and participated in an off-site audit of TANC's registered functions. These reliability standards compliance activities represent a meaningful effort. While TANC will continue to cultivate and implement a culture of

compliance with the mandatory Reliability Standards, it strongly urges the Commission to more carefully consider the cost produced by such a culture that places emphasis on demonstration of compliance. TANC emphatically believes that compliance and reliability are not the same and that the Commission's focus should be squarely on matters that directly improve the reliability of the bulk electric system. Thus, TANC respectfully submits that the Commission should consider the full magnitude of the burdens the reporting requirements associated with the CIP Reliability Standards impose on registered entities and should minimize such burdens in order to maximize reliability success.

### **III. RESERVATION OF RIGHTS**

12. TANC reserves the right to posit and address any additional issues, which it or others may identify or raise in the proceeding herein.

### **IV. CONCLUSION**

**WHEREFORE**, the Transmission Agency of Northern California appreciates the opportunity to provide comments to the Commission's Proposed



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Information Collection Extension and Request for Comments, and urges the Commission to consider TANC's Comments in formulating its actions.

Dated: December 27, 2010

Respectfully submitted,

/s/ Michael Postar

Michael Postar

Bhaveeta K. Mody

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