

126 FERC ¶ 61,123
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Acting Chairman;
Sudeen G. Kelly, Marc Spitzer,
and Philip D. Moeller.

North American Electric Reliability Corporation

Docket No. RR07-16-004

ORDER CONDITIONALLY ACCEPTING COMPLIANCE FILING

(Issued February 19, 2009)

1. On July 21, 2008, as amended on July 25, 2008, the North American Electric Reliability Corporation (NERC) submitted a filing in compliance with the June 19, 2008 order,¹ which conditionally approved a true-up to NERC's 2007 budget, and included responses to the *2008 Budget Order*.² In this order, the Commission conditionally accepts NERC's compliance filing and orders an additional compliance filing, as discussed below.

I. Background

2. As the Electric Reliability Organization (ERO) for the United States,³ NERC must file with the Commission its proposed business plan and entire annual budget for statutory and non-statutory activities. This filing must include annual business plans and budgets for each of the Regional Entities. In the *2008 Budget Order*, the Commission conditionally accepted NERC's 2008 Business Plan and Budget as well as the 2008 Business Plan and Budget of each Regional Entity. The *2008 Budget Order* approved a total funding requirement for 2008 of \$82,587,129 allocable to end users in the United States. This amount included \$22,780,492 for NERC funding, \$59,402,602 for Regional Entity funding and \$404,035 in funding for the Western Interconnection Regional

¹ *North American Electric Reliability Corp.*, 123 FERC ¶ 61,282 (2008) (June 19 Order).

² *North American Electric Reliability Corp.*, 121 FERC ¶ 61,057 (2007) (*2008 Budget Order*).

³ *North American Electric Reliability Corp.*, 116 FERC ¶ 61,062 (*ERO Certification Order*), *order on reh'g and compliance*, 117 FERC ¶ 61,126 (2006).

Advisory Body. The Commission also found that it would be valuable to receive actual ERO and Regional Entity prior year costs before NERC files its budget for the following year. The Commission therefore directed NERC to submit a true-up of its budget, including the Regional Entity budgets on or before April 1 of each year. We stated that the true-up should include sufficient detail and sufficient explanations for the Commission to determine by program area, the reasons for deviations from the budget and the impact of those deviations.⁴

3. In the *2008 Budget Order*, the Commission also directed certain actions with respect to NERC's system of accounts and record keeping requirements. The Commission directed NERC to make a filing detailing (1) the functional categories to be used by the Regional Entities for segregating non-statutory income, revenue and expenses; and (2) instructions detailing the policies and procedures describing and providing guidance on the recording and summarizing of financial data and transactions, including an explanation of the interrelationship of the functional categories to its account listing.⁵

4. On April 1, 2008 NERC submitted a compliance filing to the Commission as directed in the *2008 Budget Order*. In the June 19 Order, the Commission conditionally accepted this compliance filing and directed NERC to: submit modified document retention policies for the Midwest Reliability Organization and the Northeast Power Coordinating Council, Inc. with the 2009 budget filing, and develop additional metrics regarding administrative costs for use in NERC's 2008 and 2009 true-up filings and all subsequent business plans and budgets beginning with NERC's 2010 Business Plan and Budget. On July 21, 2008, NERC submitted an additional compliance filing to address the Commission's directives in the June 19 Order. As requested, NERC's compliance filing includes additional detail about the business plans and budgets of several Regional Entities. In this order, we conditionally accept NERC's compliance filing, as amended, to the June 19 Order and direct further compliance, as discussed below.

II. Notice of Filing and Responsive Pleading

5. Notice of NERC's amended compliance filing was published in the *Federal Register*, 73 Fed. Reg. 44,983 (2008), with interventions and protests due on or before August 14, 2008. The Western Electricity Coordinating Council filed timely comments in support of the compliance filing.

⁴*2008 Budget Order*, 121 FERC ¶ 61,057 at P 23.

⁵ *Id.* P 80.

III. Discussion

A. Southwest Power Pool, Inc.

6. In its June 19 Order, the Commission directed NERC to make a compliance filing within 30 days to include, among other things, a statement from Southwest Power Pool Regional Entity (SPP Regional Entity) explaining whether it reconciled its accounts and income, revenue and expenses with the NERC System of Accounts and, if so, how it performed such reconciliation. The Commission also found that a reconciliation of SPP Regional Entity and NERC account numbers is essential to ensure that SPP Regional Entity's accounting has properly reported income, revenue and expenses according to the NERC System of Accounts.⁶ The Commission found that this was especially critical due to the sizeable non-statutory activities reported by SPP Regional Entity. The Commission noted that section 8(e) of the *pro forma* Delegation Agreement requires Regional Entities to follow NERC's prescribed system of accounts.

NERC Compliance Filing

7. NERC and SPP Regional Entity indicate that SPP Regional Entity has not performed a reconciliation of its accounts and its income, revenues and expenses for 2007 with the NERC System of Accounts. SPP Regional Entity states that pursuant to section 8(h) of the NERC-SPP Regional Entity Delegation Agreement, SPP Regional Entity is required by NERC to report quarterly unaudited financial information to NERC on the NERC Statement of Activities (formerly called the Treasurer's Report), using the format provided on the NERC form. SPP Regional Entity states that although it does not record its income, revenue and expenses using the NERC System of Accounts, SPP Regional Entity is able, as the result of its time and expense tracking and allocation procedures, which provide for the direct charging or allocation of expenses to statutory programs or non-statutory activities, to identify the income and expense items and amounts that are to be reported on the NERC Statement of Activities.

Commission Conclusion

8. The Commission is concerned that SPP Regional Entity has not reconciled its accounts and income, revenue and expenses with the NERC System of Accounts, in violation with its delegation agreement. Section 8(e) of the NERC-SPP Regional Entity

⁶ June 19 Order, 123 FERC ¶ 61,282 at P 12.

delegation agreement requires SPP Regional Entity to follow the NERC System of Accounts.⁷ The requirements of section 8(h) of the delegation agreement do not change this.

9. Statutory and non-statutory activities must be properly accounted for and segregated to ensure that funds are appropriately collected under section 215 to the Federal Power Act.⁸ As the Commission explained in its order accepting revisions to the Regional Entities' delegation agreements, the uniformity provided by NERC's system of accounts and related accounting instructions permits comparability and analysis of data provided by NERC and the Regional Entities in their budget filings, among other things.⁹ The Commission concluded that this uniformity is essential for identifying costs of statutory and non-statutory activities, comparing each fiscal year budget with actual results, making comparisons among the Regional Entities and ensuring that funds approved for statutory activities are adequately controlled.¹⁰ Accordingly, the Commission directs SPP Regional Entity to develop and implement accounting procedures to comply with section 8(e) of the NERC-SPP Regional Entity delegation agreement within 30 days of date of this order. NERC shall make a compliance filing within 45 days of the date of this order certifying that SPP Regional Entity is in compliance with this section of the delegation agreement.

The Commission orders:

(A) NERC's compliance filing, as amended, is hereby conditionally accepted, as discussed in the body of this order.

(B) SPP Regional Entity is hereby directed to develop and implement accounting procedures to comply with section 8(e) of the NERC-SPP Regional Entity delegation agreement within 30 days of the date of this order, as discussed in the body of this order.

⁷ See *North American Electric Reliability Council, et al.*, 119 FERC ¶ 61,060, at P 375 (2007) (accepting the NERC-SPP Delegation Agreement).

⁸ 16 U.S.C. § 824o (2006).

⁹ *North American Electric Reliability Council, et al.*, 122 FERC ¶ 61,245, at P 29 (2008).

¹⁰ *Id.*

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(C) NERC is hereby directed to submit an additional compliance filing within 45 days of the date of this order, as discussed in the body of this order.

By the Commission. Commissioner Kelliher is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Document Content(s)

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