

September 14, 2009

VIA ELECTRONIC FILING

Ms. Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**Re: North American Electric Reliability Corporation
Docket No. RR09-9-000, RR07-14-004 and RR08-6-004
Supplemental Filing of NERC (Attachment 15) in Support of its
Request for Acceptance of 2010 Business Plans and Budgets of NERC and
Regional Entities and for Approval of Proposed Assessments to Fund Budgets**

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby submits the “Supplemental Filing of the North American Electric Reliability Corporation (Attachment 15) in Support of Request for Acceptance of its 2010 Business Plan and Budget and the 2010 Business Plans and Budgets of Regional Entities and for Approval of Proposed Assessments to Fund Budgets.” The purpose of this Supplemental Filing is to submit to the Commission Attachment 15 – Metrics Comparing Regional Entity Operations Based on the 2010 Budgets, which was not included in NERC’s original August 24, 2009 filing in these dockets.

NERC’s filing consists of: (1) this transmittal letter, (2) the narrative text of this filing, and (3) Attachment 15 to NERC’s 2010 Business Plan and Budget filing. This transmittal letter and the narrative text are submitted in a single pdf file, and Attachment 15 is submitted in a separate pdf file.

Please contact the undersigned if you have any questions concerning this filing.

Respectfully submitted,

/s/ Owen E. MacBride
Owen E. MacBride

Attorney for North American Electric
Reliability Corporation

UNITED STATES OF AMERICA
Before the
FEDERAL ENERGY REGULATORY COMMISSION

NORTH AMERICAN ELECTRIC)	
RELIABILITY CORPORATION)	Docket Nos. RR09-9-000,
)	RR07-14-004 and RR08-6-004

SUPPLEMENTAL FILING OF THE
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
(ATTACHMENT 15)
IN SUPPORT OF
REQUEST FOR ACCEPTANCE OF ITS 2010 BUSINESS PLAN AND BUDGET AND
THE 2010 BUSINESS PLANS AND BUDGETS OF REGIONAL ENTITIES
AND FOR APPROVAL OF PROPOSED ASSESSMENTS TO FUND BUDGETS

The North American Electric Reliability Corporation (NERC) hereby requests leave to make this supplemental filing to its “Request for Acceptance of its 2010 Business Plan and Budget and the 2010 Business Plans and Budgets of Regional Entities and for Approval of Proposed Assessments to Fund Budgets,” filed on August 24, 2009 in the above-captioned dockets (2010 Business Plan and Budget Filing). The purpose of this supplemental filing is to submit the attached **Attachment 15**, “Metrics Comparing Regional Entity Operations Based on the 2010 Budgets.”

As explained at pages 68-69 of the narrative portion of the 2010 Business Plan and Budget filing, because several of the Regional Entity 2010 Business Plans and Budgets were not finalized and approved by the NERC Board of Trustees until two business days before the due date of the filing, there was not sufficient time before the filing date to calculate and validate the final metrics values to be provided in **Attachment 15** nor to conduct the accompanying analysis and prepare a discussion of the metrics for inclusion in **Attachment 15**. NERC therefore requested an extension of time and leave to submit **Attachment 15**, containing the calculated

metrics and accompanying analysis and discussion for the 2010 Regional Entity Business Plans and Budgets, in a supplemental filing to be made on or before September 18, 2009.¹

NERC and the Regional Entities have been able to complete calculation of the budget metrics and prepare the accompanying analysis and discussion, sooner than had been anticipated. Although the Commission has not yet issued a ruling on NERC's request for an extension of time and leave to submit **Attachment 15** in a supplemental filing, NERC is hereby proffering this supplemental filing for the purpose of submitting the completed **Attachment 15**.

Accordingly, NERC respectfully requests that the Commission grant NERC leave to submit this supplemental filing, and that the Commission accept the attached **Attachment 15** as part of the 2010 Business Plan and Budget Filing.

Respectfully submitted,

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¹ A placeholder **Attachment 15** was included with the 2010 Business Plan and Budget Filing submitted on August 24, 2009.

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document upon all parties listed on the official service list compiled by the Secretary in this proceeding.

Dated at Chicago, Illinois this 14th day of September, 2009.

/s/ Owen E. MacBride
Owen E. MacBride

*Attorney for North American Electric
Reliability Corporation*

DOCKET NOS. RR09-9-000, RR07-14-004 and RRO8-6-004

**NORTH AMERICAN ELECTRIC RELIABILITY
CORPORATION**

2010 BUSINESS PLAN AND BUDGET FILING

ATTACHMENT 15

METRICS COMPARING

REGIONAL ENTITY OPERATIONS

BASED ON THE 2010 BUDGETS

ATTACHMENT 15

METRICS COMPARING REGIONAL ENTITY OPERATIONS BASED ON THE 2010 BUDGETS

Introduction

This Attachment provides metrics on the Regional Entities' operations based on their 2010 Business Plans and Budgets, and analysis of the metrics. The metrics focus primarily on the Regional Entities' Compliance Monitoring and Enforcement Programs. The Attachment contains (1) a table providing metrics values for each Regional Entity (page 3); (2) a series of bar charts comparing the Regional Entities' Compliance Program budgeted costs per registered entity and per registered function, and each Regional Entity's projected costs for 2010 for "small," "medium" and "large" on-site and off-site audits¹ (pages 4 through 7); (3) trend line plots of the Regional Entities' Compliance Program budgets against numbers of registered entities and numbers of registered functions in each Region (pages 8-9); and (4) discussion and analysis of the metrics (pages 10 through 16). The discussion and analysis focuses on variations in the Regional Entity metrics and possible reasons for the variations.

In prior years' Business Plan and Budget filings, the metrics developed and presented by NERC and the Regional Entities included a considerable amount of descriptive information, such as information on each Regional Entity's form of organization and governance. However, since much of this descriptive information is provided in the individual Regional Entity Business Plans and Budgets, for this Attachment NERC and the Regional Entities focused on providing quantitative data and information. The table on page 3 shows the following quantitative data for each Regional Entity based on its 2010 Business Plan and Budget:

- Numbers of registered entities
- Numbers of registered functions
- NEL (GWh) per registered entity
- ERO [statutory] assessment per registered entity
- ERO assessment per registered function
- Total ERO assessment
- Total statutory budget per registered entity
- Total statutory budget per registered function
- Total statutory budget
- Registered entities per statutory full-time equivalent employee (FTE)
- Registered functions per statutory FTE

¹ As originally presented in NERC's *December 15, 2008 Budget Compliance Filing* to the *2009 Budget Order*, a "small" compliance audit involves 25 or fewer reliability standard requirements to be audited; a "medium" audit involves 26 to 75 requirements to be audited; and a "large" audit involves more than 75 requirements to be audited. An on-site audit takes place at the registered entity's site, while an off-site audit takes place at another location, typically the Regional Entity's offices.

- Compliance Program budget per registered entity
- Compliance Program budget per registered function
- Total Compliance Program budget
- Registered entities per Compliance Program FTE
- Registered functions per Compliance Program FTE
- Projected numbers of small, medium and large on-site compliance audits in 2010
- Projected numbers of small, medium and large off-site compliance audits in 2010
- Projected numbers of small and medium on-site audits of CIP standards in 2010²
- Projected numbers of small and medium off-site audits of CIP standards in 2010
- Estimated costs for small, medium and large on-site compliance audits in 2010
- Estimated costs for small, medium and large off-site compliance audits in 2010

² There are fewer than 75 requirements in the nine Critical Infrastructure Protection (CIP) standards; therefore, there are no “large” audits of compliance with the CIP standards.

2010 Metrics for Budget Submissions

Budget Metrics	FRCC	MRO ³	NPCC ³	Rfirst	SERC	SPP	TRE	WECC ³
Number of registered entities	70	116	268	358	226	115	216	470
Number of registered functions	229	425	544	671	638	376	334	1256
NEL (GWh) per registered entity	3,335	2,373	2,468	2,600	4,569	1,809	1,439	1,828
ERO assessment \$ per registered entity ¹	\$ 70,545	\$ 64,687	\$ 42,912	\$ 40,070	\$ 43,501	\$ 58,747	\$ 30,835	\$ 52,451
ERO assessment \$ per registered function ¹	\$ 21,564	\$ 17,656	\$ 21,141	\$ 21,379	\$ 15,410	\$ 17,968	\$ 19,941	\$ 19,627
Total ERO Assessments ¹	\$ 4,938,177	\$ 7,503,745	\$ 11,500,439	\$ 14,345,192	\$ 9,831,277	\$ 6,755,854	\$ 6,660,377	\$ 24,651,751
Total budget per registered entity ¹	\$ 77,446	\$ 63,501	\$ 42,366	\$ 39,622	\$ 47,353	\$ 70,772	\$ 32,040	\$ 53,251
Total budget per registered function ¹	\$ 22,142	\$ 17,332	\$ 20,871	\$ 21,140	\$ 16,774	\$ 21,646	\$ 20,720	\$ 19,927
Total Budget ¹	\$ 5,421,187	\$ 7,366,117	\$ 11,354,085	\$ 14,184,713	\$ 10,701,683	\$ 8,138,783	\$ 6,920,641	\$ 25,027,851
Registered entity per Statutory FTE ¹	3.088	4.000	9.777	6.755	4.967	4.733	6.353	4.189
Registered function per Statutory FTE ¹	10.101	14.655	19.847	12.660	14.022	15.473	9.824	11.194
Compliance budget per registered entity	\$ 51,013	\$ 40,438	\$ 23,129	\$ 28,840	\$ 29,447	\$ 53,876	\$ 23,461	\$ 29,822
Compliance budget per registered function	\$ 15,594	\$ 11,037	\$ 11,394	\$ 15,387	\$ 10,431	\$ 16,478	\$ 15,173	\$ 11,160
Total Compliance Budget	\$ 3,570,933	\$ 4,690,810	\$ 6,198,595	\$ 10,324,698	\$ 6,655,003	\$ 6,195,777	\$ 5,067,667	\$ 14,016,429
Registered entity per Compliance FTE	5.569	8.529	22.333	9.808	10.273	8.214	11.527	9.400
Registered function per Compliance FTE	18.218	31.250	45.333	18.384	29.000	26.857	17.824	25.120
Number of Small Audits Onsite ²	8.0	0.0	0.0	0.0	4.0	0.0	1.0	0.0
Number of Medium Audits Onsite ²	10.0	8.0	0.0	0.0	18.0	2.0	11.0	0.0
Number of Large Audits Onsite ²	6.0	9.0	5.0	14.0	11.0	6.0	6.0	17.0
Number of Small Audits Offsite ²	0.0	3.0	10.0	57.0	22.0	7.0	6.0	51.0
Number of Medium Audits Offsite ²	0.0	8.0	36.0	8.0	0.0	6.0	26.0	35.0
Number of Large Audits Offsite ²	0.0	0.0	12.0	0.0	0.0	0.0	2.0	6.0
Number of Small CIP Audits Onsite ²	7.0	10.0	0.0	28.0	6.0	6.0	1.0	20.0
Number of Medium CIP Audits Onsite ²	1.0	10.0	24.0	13.0	0.0	4.0	0.0	26.0
Number of Small CIP Audits Offsite ²	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Number of Medium CIP Audits Offsite ²	0.0	0.0	0.0	0.0	0.0	0.0	0.0	75.0
Avg. Number of Contractor/Consultants Per Small Audits Onsite	0.0	0.0	0.0	0.0	0.0	0.0	0.0	3.0
Avg. Number of Contractor/Consultants Per Medium Audits Onsite	0.0	0.0	4.0	0.0	0.0	2.0	0.0	3.0
Avg. Number of Contractor/Consultants Per Large Audits Onsite	0.0	0.0	6.0	2.0	0.2	2.0	0.0	3.0
Avg. Number of Contractor/Consultants Per Small Audits Offsite	0.0	0.0	1.0	1.0	0.0	1.0	0.0	2.0
Avg. Number of Contractor/Consultants Per Medium Audits Offsite	0.0	0.0	2.0	1.0	0.0	2.0	0.0	2.0
Avg. Number of Contractor/Consultants Per Large Audits Offsite	0.0	0.0	3.0	0.0	0.0	0.0	0.0	2.0
Estimated Cost per Small Audit Onsite ²	\$ 11,871	n/a	\$ 15,800	n/a	\$ 11,411	\$ 16,375	\$ 23,393	n/a
Estimated Cost per Medium Audit Onsite ²	\$ 21,707	\$ 11,422	\$ 30,160	n/a	\$ 18,540	\$ 34,100	\$ 29,034	n/a
Estimated Cost per Large Audit Onsite ²	\$ 43,680	\$ 26,390	\$ 51,820	\$ 35,049	\$ 34,574	\$ 49,050	\$ 33,882	\$ 52,544
Estimated Cost per Small Audit Offsite ²	n/a	\$ 4,076	\$ 3,960	\$ 12,390	\$ 9,339	\$ 11,175	\$ 20,054	\$ 6,307
Estimated Cost per Medium Audit Offsite ²	n/a	\$ 6,822	\$ 8,380	\$ 15,538	n/a	\$ 28,300	\$ 23,525	\$ 8,075
Estimated Cost per Large Audit Offsite ²	n/a	n/a	\$ 12,980	n/a	n/a	\$ 39,450	\$ 26,996	\$ 15,686

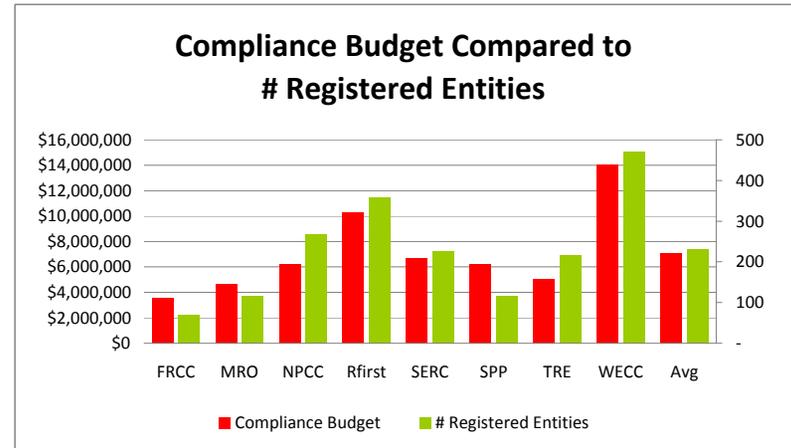
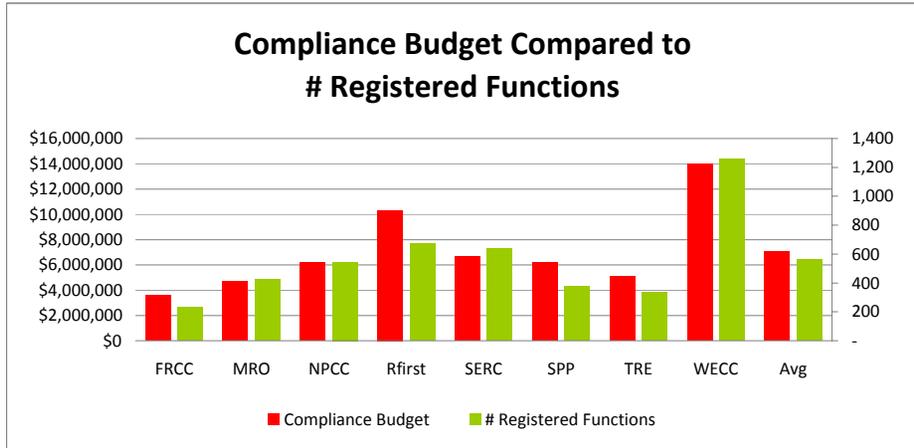
¹For WECC, the cost of the Reliability Coordinator function of \$14,480,707 has been deducted from the ERO assessments and Total Budget for comparison with the other Regions where no such function exists in Statutory Programs. 60.3 direct FTEs in the Reliability Coordinator function have been excluded from the calculations of registered entity per Statutory FTE and registered function per Statutory FTE.

² Size of audits are defined by number of requirements:

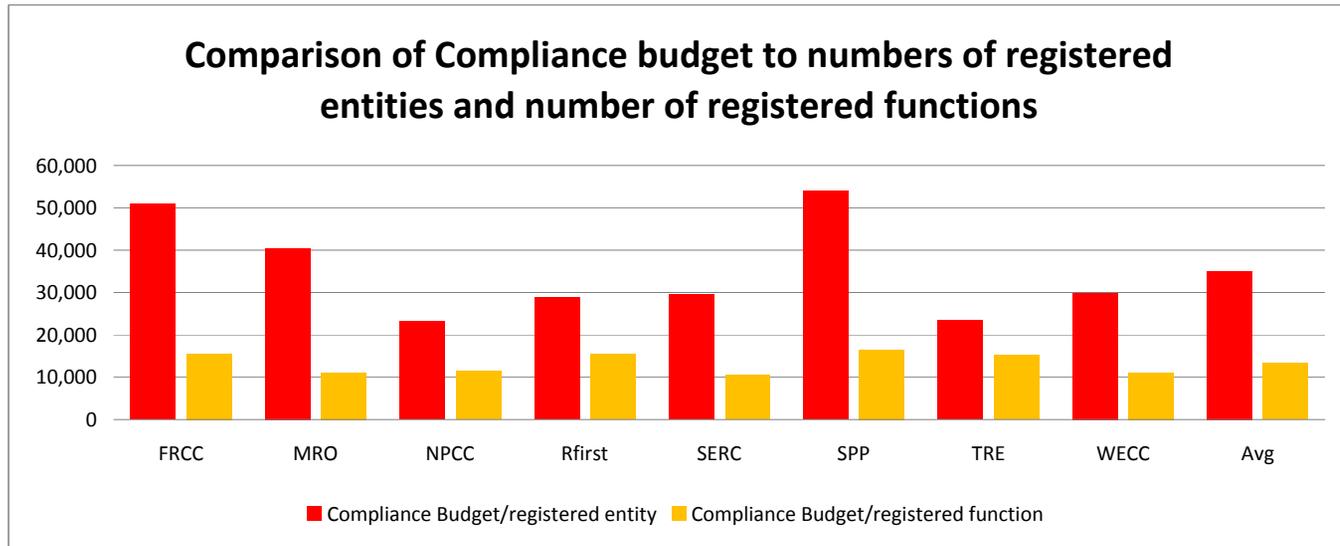
Small	25 or less
Medium	26 to 75
Large	More than 75

³ Due to the specifics of the compliance program included in the individual provincial MOUs for cross-border regional entities, some of these metrics are not directly comparable.

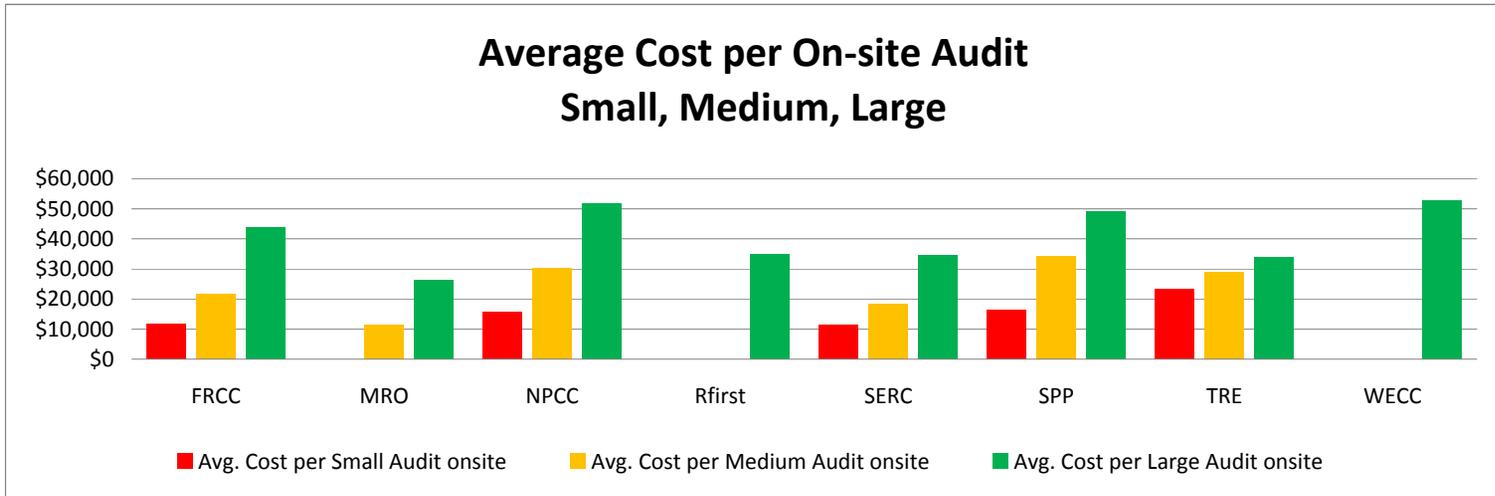
	FRCC	MRO	NPCC	Rfirst	SERC	SPP	TRE	WECC	Avg
Compliance Budget	3,570,933	4,690,810	6,198,595	10,324,698	6,655,003	6,195,777	5,067,667	14,016,429	7,089,989
	-	-	-	-	-	-	-	-	-
# Registered Entities	70	116	268	358	226	115	216	470	230
# Registered Functions	229	425	544	671	638	376	334	1,256	559



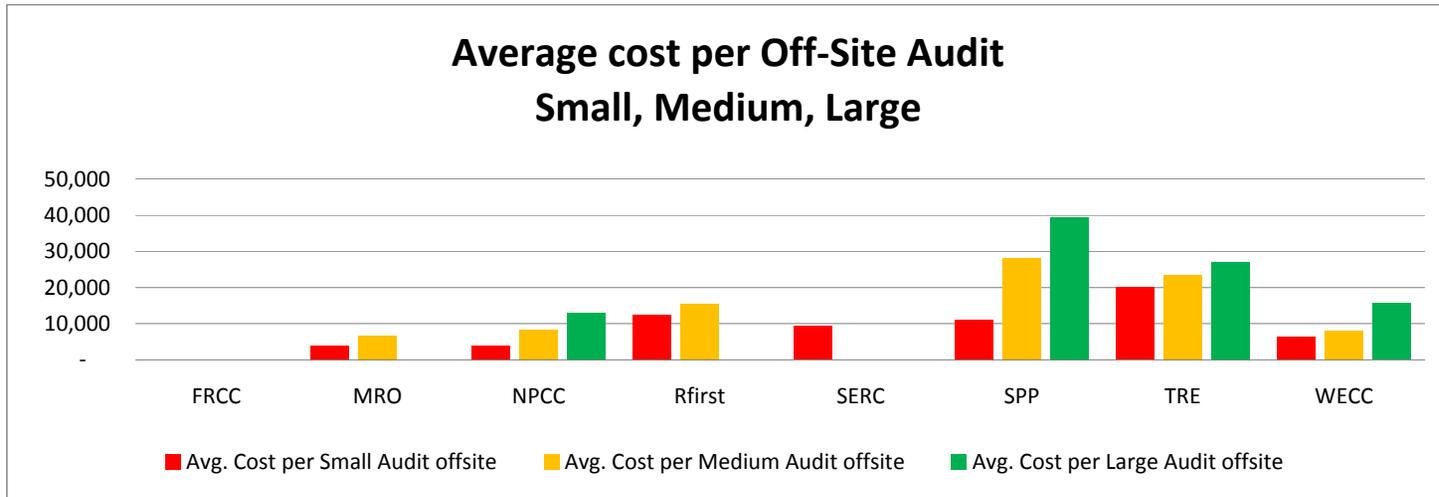
	FRCC	MRO	NPCC	Rfirst	SERC	SPP	TRE	WECC	Avg
Compliance Budget/registered entity	51,013	40,438	23,129	28,840	29,447	53,876	23,461	29,822	35,003
Compliance Budget/registered function	15,594	11,037	11,394	15,387	10,431	16,478	15,173	11,160	13,332



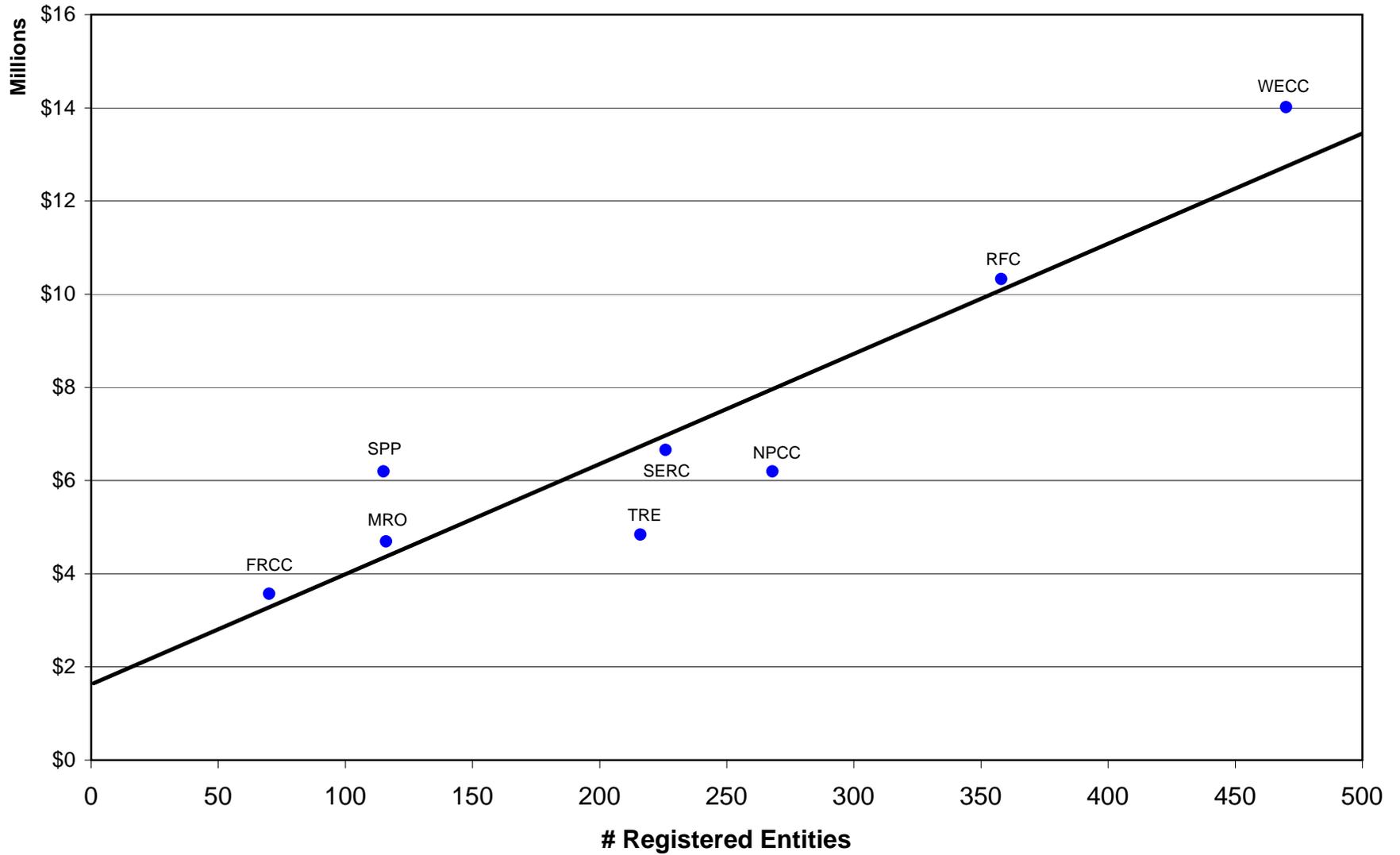
	FRCC	MRO	NPCC	Rfirst	SERC	SPP	TRE	WECC
Avg. Cost per Small Audit onsite	11,871	n/a	15,800	n/a	11,411	16,375	23,393	n/a
Avg. Cost per Medium Audit onsite	21,707	11,422	30,160	n/a	18,540	34,100	29,034	n/a
Avg. Cost per Large Audit onsite	43,680	26,390	51,820	35,049	34,574	49,050	33,882	52,544



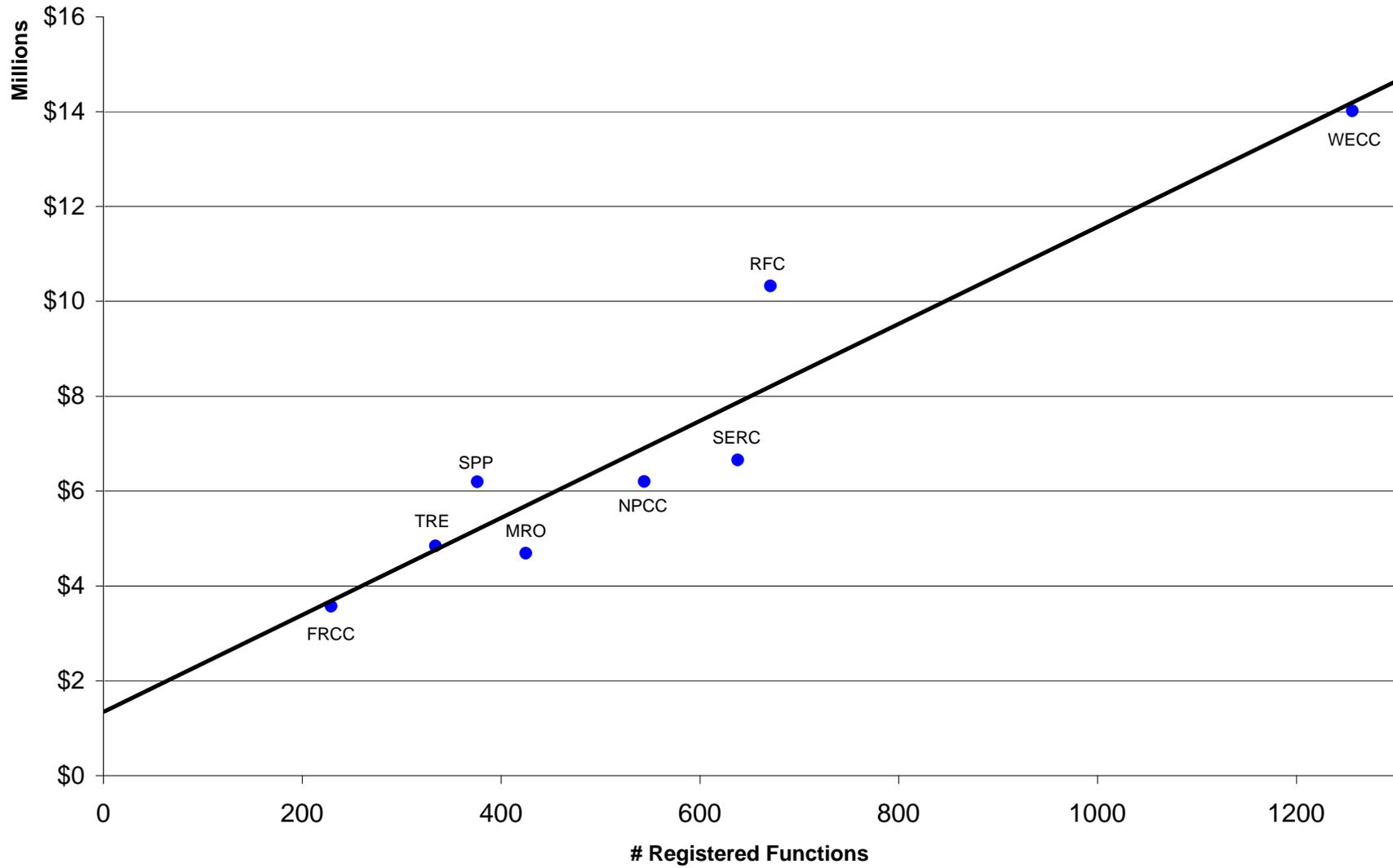
	FRCC	MRO	NPCC	Rfirst	SERC	SPP	TRE	WECC
Avg. Cost per Small Audit offsite	n/a	4,076	3,960	12,390	9,339	11,175	20,054	6,307
Avg. Cost per Medium Audit offsite	n/a	6,822	8,380	15,538	n/a	28,300	23,525	8,075
Avg. Cost per Large Audit offsite	n/a	n/a	12,980	n/a	n/a	39,450	26,996	15,686



Regional Entity Compliance Program Budget as Function of Number of Registered Entities



Regional Entity Compliance Program Budget as Function of Number of Registered Functions



Discussion and Analysis

The development, collection, analysis and comparison of Regional Entity Compliance Program metrics data is a complicated and time-consuming process, requiring careful consideration of many complex factors. Moreover, it is an ongoing process. During the development of the 2010 Business Plans and Budgets, NERC and the Regional Entities devoted considerable effort and attention to refining the metrics to be presented in this filing, as well as to achieving greater consistency among the Regional Entities in the definition and recording of budget components and therefore greater consistency in the metrics values. The results of that effort and analysis are provided in this Attachment. NERC and the Regional Entities will continue to work collaboratively on an ongoing basis to refine the metrics and improve their analysis of the reported metrics values and the factors that may cause variations in values among the Regional Entities.

In analyzing the Regional Entity metrics, NERC has in a number of instances looked at the average value among the Regional Entities for the metric, as well as the range of the individual values around the average. This data has been considered as part of the effort to understand and explain the differences among the Regional Entities, and not because NERC believes the deviation from an average, standing alone, is a measure of an individual Regional Entity's efficiency or effectiveness.³

The Regional Entity metrics show, not surprisingly, that the Regional Entities with the larger numbers of registered entities and registered functions have the larger Compliance Program budgets. There are variations among the Regional Entities with respect to Compliance Program budget per registered entity and Compliance Program budget per registered function, but the range of values is not large. The average of the Regional Entity values for Compliance Program budget per registered function, which is the more granular metric,⁴ is \$13,332; the highest value (SPP RE - \$16,478) is 124% of the average while the lowest value (SERC - \$10,431) is 78% of the average.⁵

³ In future metrics development, outcomes from key activities may need to be established as a way of measuring productivity, rather than costs per unit. A Regional Entity could have very few activities and outcomes, but be classified as "low cost" by virtue of its size alone, without measuring its effectiveness in meeting its mission.

⁴ There is a variation among the Regional Entities in terms of registered functions per registered entity, ranging from a high value of 3.66 registered functions per registered entity for MRO to a low value of 1.55 registered functions per registered entity for Texas RE.

⁵ The data on numbers of registered entities and registered functions in each Region are as of May 2009. Texas RE budgeted additional Compliance Program resources for 2010 in anticipation of an increase in registered entities and functions in late 2009 or 2010 due to expected resolution of issues concerning criteria for registration of entities in the Load-Serving Entity category. See **Attachment 9** at 13-14. Texas RE now expect five additional registered entities and 64 added registered functions as a result. If the anticipated numbers of additional registered entities and registered functions were used in the metrics calculations for Texas RE, its total statutory budget and Compliance Program budget per registered entity and per registered

The Regional Entities with the two highest values for Compliance Program budget per registered function, SPP RE and FRCC, have two of the three lowest numbers of registered functions among the Regional Entities. (SPP RE and FRCC also have the two lowest numbers of registered entities in their Regions.) Similarly, three of the Regional Entities with lower values for Compliance Program budget per registered function – SERC, WECC and NPCC – also have three of the four highest numbers of registered functions among the Regional Entities. These data indicate that there are economies of scale in Compliance Program operations and costs. However, there are exceptions to this observation: *ReliabilityFirst* has the second highest numbers of registered entities and registered functions among the Regional Entities, but has the third highest Compliance Program budget per registered function. (However, *ReliabilityFirst* has the second lowest number of registered functions per registered entity; therefore *ReliabilityFirst* does not have the opportunity to monitor compliance for as many reliability functions for each registered entity as do other Regional Entities, which may be a possible factor that helps explain the observed data.) MRO, on the other hand, has the third lowest number of registered entities and fourth lowest number of registered functions in its Region, but has the second lowest value for Compliance Program budget per registered function.⁶

In addition, four of the Regional Entities have included costs for reviewing and processing Technical Feasibility Exceptions (TFEs) to certain Critical Infrastructure Protection (CIP) Standards in their 2010 Compliance Program budgets, while the other four Regional Entities have not specifically included costs for reviewing and processing TFEs in their 2010 Compliance Program budgets. Specifically, MRO, *ReliabilityFirst*, SPP RE and Texas RE have included incremental resources in their 2010 Compliance Program budgets for processing TFEs, while FRCC, NPCC, SERC and WECC have not budgeted specific incremental resources in their 2010 Compliance Program budgets for reviewing and processing TFEs. The four Regional

function would be lower, and its numbers of registered entities and registered functions per statutory FTE and per Compliance Program FTE would be higher. This information should be kept in mind in reviewing the metrics values for Texas RE.

⁶ MRO believes one factor enabling it to have lower Compliance Program costs per registered entity and registered function is that MRO's integrated compliance information system, which it developed about eight years ago, automates many of administrative and reporting aspects of the Compliance Program, including five of the eight CMEP monitoring processes. This suggests additional efficiency benefits are likely to be realized by other Regional Entities as their automated compliance information systems are fully developed and implemented. However, a factor tending to increase MRO's Compliance Program budget relative to other Regional Entities is that in its 2010 Business Plan and Budget, MRO has moved personnel into a separate enforcement department, including its in-house attorney and related administrative personnel, so that the costs for these employees are included in the Compliance Program budget. Other Regional Entities have budgeted in-house attorneys and related support personnel under the Legal and Regulatory function of Administrative Services; the costs of these employees are then allocated among the five statutory programs on the basis of proportionate numbers of FTEs budgeted for each program. MRO also believes its large number of joint registrations and its ongoing efforts to inventory bulk power system facilities for compliance registration purposes may increase its Compliance Program costs relative to other Regional Entities.

Entities that have budgeted specific incremental Compliance Program resources for reviewing and processing TFEs have done so by providing for additional Compliance FTEs to handle this responsibility, by budgeting additional contractor or consultant resources to perform these tasks, or by a combination of the two approaches. The other four Regional Entities presently plan to draw on their Working Capital Reserves if additional resources are needed during 2010 for reviewing and processing TFEs, although it is recognized that some or all of these Regional Entities could find it necessary to submit supplemental budget and funding requests during 2010 as the scope of effort required to review and process TFEs becomes clearer. However, neither the possible use of funds from these four Regional Entities' Working Capital Reserves, nor the possible supplemental Compliance Program budgets, are reflected in the metrics presented in this Attachment.⁷

With respect to SPP RE's relatively higher values for Compliance Program budget per registered entity and per registered function, in addition to having one of the lowest numbers of registered entities and registered functions among the Regional Entities, SPP RE's overall 2010 Compliance Program budget (direct and indirect expenses plus fixed assets) is 156% higher than its 2009 Compliance Program budget, reflecting an increase from eight FTEs to 14 FTEs (75%) and a significant increase in budgeted expense for Consultants & Contracts. This is the largest percentage increase in Compliance Program budgets from 2009 to 2010 among the Regional Entities. The planned increases in SPP RE's Compliance Program budget and staffing are aimed at improving SPP RE's ability to carry out its compliance workload including addressing recommendations raised in the Commission's audit of SPP RE as well as NERC's observations about the SPP RE Compliance Program in the *Three-Year ERO Performance Assessment Report*.⁸ The increase in SPP RE's Compliance Program budget also reflects the inclusion of budgeted resources to review and process TFEs. Overall, NERC believes that SPP RE's significant increase in Compliance Program budget and resources for 2010 is a positive development and that the higher values for SPP RE for Compliance Program budget per registered entity and per registered function should not be a cause for concern at this time.

The charts on pages 8 and 9 above provide a somewhat different view of the relationships between the Regional Entities' Compliance Budgets and their numbers of registered entities and registered functions. On page 8, each Regional Entity's Compliance Budget has been plotted against its number of registered entities, and on page 9, each Regional Entity's Compliance Budget has been plotted against its number of registered functions. On each of these charts, a linear trend line has been drawn based on the data points. On the chart plotting Compliance

⁷ Further discussion on how each Regional Entity is currently planning and budgeting for resources for reviewing and processing TFEs during 2010 is provided in the narrative portion of the 2010 Business Plan and Budget filing and in the individual Regional Entity Business Plan and Budget documents (**Attachments 3 through 10**).

⁸ The significant increase in SPP RE's Compliance Program budget and resources for 2010 over 2009 (and prior years) is an indicator that SPP RE is being responsive to the concerns expressed in the Commission audit as well as in NERC's evaluation of SPP RE's Compliance Program in the *Three-Year ERO Performance Assessment Report*. See *Three-Year ERO Performance Assessment Report*, Attachment 3, at 24.

Budget against number of registered entities, the data points for FRCC, MRO, SERC and ReliabilityFirst are close to the trend line, while the points for SPP RE and WECC are somewhat farther from the trend line on the high side and the points for Texas RE and NPCC are somewhat farther from the trend line on the low side. On the chart plotting Compliance Program budget against number of registered functions, the points for the Regional Entities are generally closer to the trend line, indicating that number of registered functions may be a more significant driver of a Regional Entity's total Compliance Program budget than is its number of registered entities. Additionally, the fact that the y-intercept for each trend line is significantly greater than zero is a further indication that a simple comparison of the individual Regional Entity values to an average is not a strong indicator of relative efficiency and effectiveness.

There are also variations among the Regional Entities with respect to numbers of registered entities per Compliance Program FTE and numbers of registered functions per Compliance Program FTE.⁹ The average among the eight Regional Entities for numbers of registered entities per Compliance Program FTE is 10.71 and the average for numbers of registered functions per Compliance Program FTE is 26.50. At this point in the development of the compliance monitoring and enforcement programs, NERC would have greater concerns about Regional Entities that have high values for these metrics, which could suggest a need for increased Compliance Program staffing, than it would have concerns about Regional Entities with low values for these metrics. Based on the 2010 Compliance Program budgets, the only Regional Entity with values for these two metrics significantly (*i.e.*, more than 20%) above the average is NPCC, which has 22.333 registered entities per Compliance Program FTE and 45.333 registered functions per Compliance Program FTE. However, these metrics do not capture the Regional Entities' use of contractors and consultants in Compliance Program activities, and NPCC in fact makes significant use of contractors and consultants to provide subject matter expertise in its Compliance Program, particularly in the performance of compliance audits. In previous years' budgets, NPCC included some contractors and consultants who were used heavily by NPCC in its FTE count; NPCC discontinued this practice in its 2010 Business Plan and Budget, to provide greater consistency with the other Regional Entities.¹⁰ With NPCC's extensive use of contractor and consultant resources taken into account, its higher values for these two metrics are less of a concern.

⁹ One source of variation among the Regional Entities with respect to this metric is that two Regional Entities have budgeted Compliance Program FTE additions in 2010 to review and process TFEs, while the other six Regional Entities have not budgeted incremental Compliance Program FTEs for this activity. Specifically, ReliabilityFirst has budgeted four additional FTEs in its Compliance Program to process TFEs, and Texas RE has budgeted three additional FTEs in its Compliance Program to review, process, and manage a database for, TFEs. (MRO and SPP RE have budgeted additional contractor/consultant resources, but no additional FTEs, to review and process TFEs.) Reflecting in part the budgeting of additional Compliance Program FTEs to handle TFE responsibilities, ReliabilityFirst and Texas RE have two of the three lowest values among the Regional Entities for numbers of registered functions per Compliance Program FTE. (As noted earlier, however, Texas RE budgeted Compliance Program resources in anticipation of an increase in its number of registered functions in late 2009 or 2010.)

¹⁰ See the narrative 2010 Business Plan and Budget filing at 57 note 88. In NPCC's 2009 Business Plan and Budget, 3.8 FTEs of its FTE count were contractor resources. *Id.*

The discussion in the preceding paragraph illustrates that the metrics should only be used as top level indicators of areas of potential concern that should be subjected to further review and analysis. Ultimately, the sufficiency of a Regional Entity's Compliance Program staffing can only be determined through a careful review of the Regional Entity's operations and performance outcomes. In the case of NPCC, data provided in §III.B of Attachment 3 to NERC's *Three-Year ERO Performance Assessment Report* showed that NPCC's statistics for Average Time to Determine if a Possible Violation is an Alleged Violation, Average Time to Report an Alleged Violation to NERC, Percent of Alleged Violations Submitted to NERC Staff as a NOCV or Settlement for Review, Percent of Violations Submitted to NERC Staff for Review that have been Approved by the BOTCC, and Percent of Alleged Violations that have been Approved by the BOTCC, were all better than the average values for these statistics for all the Regional Entities.

With respect to the Regional Entities' estimated costs for 2010 to perform each category of compliance audit, the estimated costs to perform a compliance audit include the costs to prepare for the audit (including review of the registered entity's completed pre-audit questionnaire and Reliability Standards Audit Worksheets (RSAWs) and other registered entity-provided documents and information, and any pre-audit meetings), to perform the audit (whether on-site or off-site), and to report the results of the audit.¹¹ Costs incurred in issuing and processing notices of alleged violations and proposed penalties resulting from the compliance audit are not included in the estimated cost to perform the audit. The costs per audit for each category of audit, shown in the table and the bar charts, are based on the Regional Entities' estimates of the man-hours required to complete the preparation, performance and reporting functions for each category of compliance audit in 2010. The costs include the direct Salary expense and related Personnel Expense (Payroll Taxes, Benefits and Retirement Costs) for the man-hours of the Regional Entity personnel involved in preparation, performance and reporting for the audit and/or the costs for consultant/contractor resources used by the Regional Entity to perform the audit, but do not include any allocation of Regional Entity indirect costs. The costs also include Travel Expense for personnel in connection with on-site audits at the registered entity's location.

NERC and the Regional Entities note the following factors, among others, that can contribute to the differences in estimated costs per audit among the Regional Entities for the various audit size and site categories, as reported in the table and shown in the bar charts:

- Some Regional Entities are using consultants or contractors on their audit teams, which may entail a higher cost per hour than the use of Regional Entity employees.¹² In particular, as shown on the table, NPCC, SPP RE, WECC, and to

¹¹ Some Regional Entities conduct all small and/or medium compliance audits off-site, while other Regional Entities do not perform any large and/or medium compliance audits off-site.

¹² The cost for contractors or consultants can vary significantly based on the individual or firm used, *e.g.*, from "sole proprietor" independent contractors to personnel from large consulting firms. Further, although the cost to use a contractor or consultant on an individual audit assignment may be more costly than using a Regional Entity employee, the annual cost to the Regional Entity of retaining a contractor or consultant for a specific targeted assignment such as

a lesser extent ReliabilityFirst and SERC are planning to use contractors or consultants to varying extents in conducting their compliance audits in 2010, while FRCC, MRO and Texas RE are not planning to make use of contractors or consultants.¹³

- The Regional Entity's footprint may affect the extent to which travel costs must be incurred in the performance of on-site compliance audits within the Region. For example, FRCC has a comparatively small geographic footprint and its headquarters office is fairly centrally located within the Region. SPP RE, ReliabilityFirst, Texas RE and NPCC (U.S. portion) also have relatively smaller geographic footprints. Thus, for instance, Texas RE reports that most registered entities in its Region are located within driving range of the Texas RE offices in Austin, Texas, and therefore can be reached by Compliance personnel via auto travel rather than airline travel. In contrast, WECC and SERC have much larger geographic footprints; as a result, more significant travel costs (including, in many cases, air travel costs) must be incurred for on-site audits by these Regional Entities.
- With some registered entities still undergoing their initial compliance audits relating to mandatory reliability standards in 2010, there continues to be a great variation in the degree of registered entity preparation for audits (*e.g.*, in organization and accessibility of documents).¹⁴ The degree of registered entity preparation for an audit can impact the amount of time the audit team must spend performing the audit, and, therefore, the Regional Entity's costs. This experience can, in turn, influence the Regional Entity's estimates of the time (man-hours) and other resources required to conduct and complete a compliance audit.
- Although a consistent definition of "large" audits has been used, *i.e.*, an audit encompassing more than 75 reliability standards requirements, some Regional Entities may project a greater number of requirements to be audited in a typical "large" compliance audit than other Regional Entities. A Regional Entity that projects a larger number of requirements to be audited in a "large" audit would, all other things equal, estimate a greater amount of resources to conduct its

participating in certain compliance audits may be less than the cost of maintaining a FTE employee on staff for the year.

¹³ However, the use of industry volunteer subject matter experts on compliance audit teams, which would tend to reduce the costs of performing audits compared to using a Regional Entity employee or a contractor or consultant, is not as prevalent as in previous years. Only FRCC and SERC are planning to use industry volunteer subject matter experts in conducting their compliance audits in 2010.

¹⁴ Pursuant to §403.11.1 of the NERC Rules of Procedure, Reliability Coordinators, Balancing Authorities and Transmission Operators are to be audited once every three years. It is the objective of NERC and the Regional Entities to conduct compliance audits of all other registered entities at least once every six years.

“large” audit (*e.g.*, more auditors, more days at the registered entity’s site and/or more man-hours to review the registered entity’s documentation and to prepare the audit report).

- Auditing of registered entities for compliance with CIP standards began in the second half of 2009 (after most of the development work on the 2010 Business Plans and Budgets was completed). With a limited (or no) base of experience in auditing compliance with the CIP Standards to guide the development of their cost estimates for CIP audits, the Regional Entities may have made differing assumptions and produced different estimates for this particular audit activity.¹⁵
- Some Regional Entities may simply be planning more steps, or budgeting higher man-hours, for the preparation, completion and/or reporting phases of their compliance audits. In particular, there may be variations in the levels of activity and man-hours budgeted by the Regional Entities for review of registered entity responses to pre-audit questionnaires and RSAWs, and other registered entity documents and information, prior to the on-site phase of a compliance audit.

In addition to these factors, differences in estimated costs per audit among Regional Entities may reflect general differences in the market levels of salaries in the different areas of the U.S. in which the various Regional Entities operate, thereby impacting their respective overall Personnel Expenses.

Despite the above-described potential sources of variations among the Regional Entities’ estimates of the costs to conduct the various types of compliance audits in 2010, the Regional Entities have reported generally to NERC that, due to their greater base of experience in conducting compliance audits and consequent greater understanding of the activities and resources required, they have greater confidence in their estimates of audit costs provided in this Attachment than they had in their estimates of audit costs that were provided in the *December 15, 2008 Budget Compliance Filing*.

In conclusion, NERC reiterates that the development, collection, analysis and comparison of metrics on the Regional Entities’ costs, operations and performance is an ongoing process. NERC and the Regional Entities will continue to work collaboratively to refine the metrics and improve their analysis of the reported metrics values and the factors that may cause variations in values among the Regional Entities; and will continue to report the results of these analyses in future annual Business Plan and Budget filings.

¹⁵ In addition, there may be differences in assumptions and planning among the Regional Entities as to whether audits of compliance with CIP standards will be conducted on a stand-alone basis, or will be conducted as part of an audit of compliance with other reliability standards applicable to the registered entity.