

165 FERC ¶ 61,023
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Neil Chatterjee,
and Richard Glick.

North American Electric Reliability Corporation

Docket No. RR18-9-000

ORDER ACCEPTING 2019 BUSINESS PLANS AND BUDGETS

(Issued October 18, 2018)

1. On August 24, 2018, the North American Electric Reliability Corporation (NERC) filed 2019 business plans and budgets for NERC, each Regional Entity,¹ and the Western Interconnection Regional Advisory Body (WIRAB) (collectively, NERC Application). For the reasons discussed below, we accept the 2019 business plans and budgets of NERC, the Regional Entities, and WIRAB, as well as the associated attachments and updates, and authorize issuance of billing invoices to fund the fiscal year 2019 operations of NERC, the Regional Entities, and WIRAB.

I. Background

A. Regulatory History

2. Section 215 of the Federal Power Act (FPA) requires the Commission to certify an Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability

¹ The seven Regional Entities are: Florida Reliability Coordinating Council; Midwest Reliability Organization; Northeast Power Coordinating Council, Inc.; ReliabilityFirst Corporation; SERC Reliability Corporation; Texas Reliability Entity; and Western Electricity Coordinating Council (WECC).

Standards, subject to Commission review and approval.² In July 2006, the Commission certified NERC as the ERO.³

3. Section 215(c)(2)(B) of the FPA provides that the ERO must have rules that “allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section.”⁴ On February 3, 2006, the Commission issued Order No. 672 to implement the requirements of section 215 of the FPA, which generally provides for Commission authorization of funding for “statutory” functions conducted by the ERO, the Regional Entities, and WIRAB (i.e., those functions carried out pursuant to section 215 of the FPA).⁵ Among other things, Order No. 672 established requirements for funding the ERO and approval of an ERO business plan and budget.⁶ Moreover, the Commission’s regulations require the ERO to file with the Commission the ERO’s proposed annual budget for statutory and non-statutory activities 130 days before the beginning of the ERO’s fiscal year.⁷ Further, the ERO’s filing must contain the annual budgets of each Regional Entity for statutory and non-statutory activities and provide supporting materials, including the ERO’s and each Regional Entity’s complete business plan and budget and organizational chart. The filing must also explain the proposed collection of all dues, fees, and charges, as well as the proposed expenditure of funds collected.

² 16 U.S.C. § 824o (2012).

³ *North American Electric Reliability Corp.*, 116 FERC ¶ 61,062, *order on reh’g and compliance*, 117 FERC ¶ 61,126 (2006), *order on compliance*, 118 FERC ¶ 61,030, *order on clarification and reh’g*, 119 FERC ¶ 61,046 (2007), *aff’d sub nom. Alcoa Inc. v. FERC*, 564 F.3d 1342 (D.C. Cir. 2009).

⁴ 16 U.S.C. § 824o(c)(2)(B).

⁵ *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval and Enforcement of Electric Reliability Standards*, Order No. 672, FERC Stats. & Regs. ¶ 31,204, *order on reh’g*, Order No. 672-A, FERC Stats. & Regs. ¶ 31,212 (2006).

⁶ Order No. 672, FERC Stats. & Regs. ¶ 31,204 at P 197.

⁷ 18 C.F.R. § 39.4(b) (2018).

B. NERC Application

4. The NERC Application contains NERC's proposed business plan and budget for the year ending December 31, 2019, as well as the proposed business plans and budgets of each of the seven Regional Entities and WIRAB for the year ending December 31, 2019.

5. NERC states that it prepared its 2019 business plan and budget, and worked with the Regional Entities in developing their business plans and budgets, through a rigorous process that provided ample opportunity for review and input by the NERC Board of Trustees Finance and Audit Committee and stakeholders. According to NERC, successive versions of the 2019 business plans and budgets were discussed by the Finance and Audit Committee as well as the full NERC Board of Trustees, in meetings and conference calls, with each event providing opportunities for stakeholders to comment.⁸

6. NERC states that the proposed assessment for the total ERO (i.e., NERC, the Regional Entities, and WIRAB) for 2019 allocable to the United States is \$165,944,381, which includes \$62,466,508 for NERC funding; \$102,848,341 for Regional Entity funding; and \$629,532 for WIRAB funding.⁹ NERC explains that it will continue to allocate costs to end users in the United States based on net energy for load. NERC maintains that its proposed total United States net funding requirement for the ERO enterprise is equivalent to \$0.0000417 per kWh, based on the aggregate net energy for load of the United States in 2017.¹⁰

7. In addition to the NERC, Regional Entity, and WIRAB business plans and budgets, the NERC Application contains various attachments including: NERC Management's Responses to Stakeholder Comments Submitted on Drafts of NERC's 2019 Business Plan and Budget (Attachment 11); Calculation of Adjustments for the Alberta Electric System Operator, Ontario Independent Electric System Operator, New Brunswick, and Québec 2019 NERC Assessments (Attachment 12); Metrics Comparing Regional Entity Operations Based on the 2019 Budgets (Attachment 13); Metrics on NERC and Regional Entity Administrative (Indirect) Costs Based on the 2018 and 2019 Budgets (Attachment 14); and Report of Board of Trustees Remuneration Review (Attachment 15).

⁸ NERC Application at 3-4.

⁹ *Id.*, Attachment 1 (Summary Tables for NERC and Regional Entity Proposed 2019 Budgets and Assessments) at 2.

¹⁰ *Id.* at 26.

II. Notice and Responsive Pleadings

8. Notice of NERC's August 24, 2018 filing was published in the *Federal Register*, 83 Fed. Reg. 44,616 (2018), with interventions and protests due on or before September 14, 2018. No interventions or protests were filed.

III. Discussion

A. NERC Business Plan and Budget

9. NERC states that its 2019 business plan and budget is based on the following program areas: (1) Reliability Standards; (2) Compliance Assurance, Compliance Analysis, Organization Registration and Certification, and Compliance Enforcement; (3) Reliability Assessment and System Analysis; (4) Reliability Risk Management, which is comprised of Situation Awareness, Event Analysis, and Performance Analysis; (5) Electricity Information Sharing and Analysis Center (E-ISAC), including the Cyber Risk Information Sharing Program (CRISP); and (6) Training, Education, and Personnel Certification.¹¹ For these program areas, NERC describes each program, identifies the program's goals and objectives, and provides the current number of full-time equivalent employees (FTEs), as well as the FTEs budgeted for 2019. NERC also provides 2018 accepted budget data and 2018 year-end projected data for comparison to the 2019 proposed budget data.

10. NERC's proposed total funding requirement for 2019 is \$79,130,349, which is an increase of \$6,149,128 (8.4 percent) over NERC's 2018 total funding requirement of \$72,981,221.¹² NERC states that its 2019 budget, excluding E-ISAC costs, of \$52,654,028 is 2.7 percent higher than its 2018 budget excluding E-ISAC costs.¹³ NERC's proposed 2019 net funding requirement is \$68,883,995 (i.e., the total funding requirement less \$10,246,354¹⁴ in funding from other sources), of which \$62,466,508 is allocated to the United States.¹⁵

¹¹ *Id.* at 7-8.

¹² *Id.* at 16, Attachment 2 at 10.

¹³ *Id.* at 15-16.

¹⁴ *Id.* at 17. NERC's other funding sources are penalty payments, third-party funding for CRISP, revenue from services and software, testing and workshop fees, and interest. *Id.* at 16.

¹⁵ *Id.*, Attachment 1 at 2.

11. NERC notes that the 2019 budget for the E-ISAC, including funding for CRISP, is 25.4 percent higher than its 2018 budget.¹⁶ NERC explains that the E-ISAC budget reflects increased computer and software capital expenditures as well as the addition of 8.46 FTEs. NERC states that these increases in the E-ISAC budget will support NERC's long term strategy for the E-ISAC, as explained in detail in Exhibit E of its business plan and budget.¹⁷

12. NERC states that the proposed 2019 business plan and budget reflects a provision for working capital and operating reserve funding in the amount of \$148,674.¹⁸ Finally, NERC proposes a 2019 staffing level of 204.92 FTEs, an increase of 5.64 FTEs from 2018 budget staffing levels.¹⁹

13. NERC states that it received \$500,000 in penalty monies for the period of July 1, 2017 through June 30, 2018.²⁰ In accordance with the Commission's June 18, 2015 order,²¹ and pursuant to section 1107.4 of the NERC Rules of Procedure, NERC requests an exception to section 1107.2 of the NERC Rules of Procedure to permit it to deposit the \$500,000 of penalty monies into its assessment stabilization reserve. NERC also requests approval to use \$550,000 of funds from the assessment stabilization reserve to reduce 2019 assessments. NERC states that these actions will leave a balance of \$1,521,000 in the assessment stabilization reserve for use to offset and stabilize assessments in future years' budgets.²²

Commission Determination

14. We accept NERC's 2019 business plan and budget. We find that NERC's 2019 budget is reasonable and that the associated costs of NERC's jurisdictional functions are equitably allocated among end users in the United States. Additionally, based on the details provided by NERC in its application, we grant NERC's request for an exception under

¹⁶ *Id.* at 33. NERC notes that CRISP comprises 33.0 percent of the total E-ISAC budget.

¹⁷ *Id.*, Attachment 2 at 11; Attachment 2, Exhibit E.

¹⁸ *Id.* at 16.

¹⁹ *Id.* at 17, Attachment 2 at 10.

²⁰ *Id.* at 40.

²¹ *North American Electric Reliability Corp.*, 151 FERC ¶ 61,225, at P 19 (2015).

²² NERC Application at 39-40.

section 1107 of the NERC Rules of Procedure, allowing NERC to allocate \$500,000 in penalty monies to its assessment stabilization reserve, and approve the withdrawal of \$550,000 from the assessment stabilization reserve (i.e., a net withdrawal of \$50,000). We note that the decision here is limited to this case. The Commission will address any future requests for an exception to section 1107.2 of the NERC Rules of Procedure based on the facts at that time.

B. Regional Entity Business Plans and Budgets

15. The NERC Application includes the 2019 business plans and budgets of each Regional Entity. The proposed total assessment for the Regional Entities that is allocable to the United States is \$102,848,341, which represents a \$1,696,411 (1.62 percent) decrease from 2018.²³ NERC states that it reviewed the Regional Entity business plans and budgets and concludes that each Regional Entity proposes necessary and adequate resources to carry out its delegated functions.²⁴

Commission Determination

16. We find that each Regional Entity submission reasonably supports the level of expenditures identified in their respective budgets and that each Regional Entity is focused on adequately staffing and funding all of their respective program areas to perform the delegated, statutory functions. Accordingly, we accept the Regional Entity business plans and budgets.

C. WIRAB Business Plan and Budget

17. WIRAB proposes statutory expenses of \$1,162,700 in 2019, which is a \$94,915 (8.9 percent) increase from its 2018 budget.²⁵ To fund its operations in 2019, WIRAB proposes a statutory assessment of \$750,000, of which \$629,532 would be allocable to end users in the United States.²⁶

18. The NERC Application indicates that WIRAB's proposed key activities in 2019 include the following: (1) working with WECC and NERC to ensure that all Reliability Coordinators in the Western Interconnection work cooperatively and in the public interest to coordinate outages, study seams issues, and share information to maintain or improve the

²³ NERC Application, Attachment 1 at 2.

²⁴ *Id.* at 44.

²⁵ *Id.* at 61.

²⁶ *Id.* at 61-62.

overall reliability of the bulk electric system; (2) advising WECC on the implications of high levels of distributed solar photovoltaic deployment on the reliable operation of the bulk electric system; (3) encouraging WECC to systematically perform reliability assessments evaluating the availability of essential reliability services under a wide range of future resource scenarios; and (4) encouraging WECC to share key findings and insights from its event analysis and situational awareness program in public briefings with Western policymakers and regulators in an effort to increase awareness of the causes of system events and the actions that can be taken to prevent recurrences of the events.²⁷ WIRAB's budget includes 5.0 FTEs for 2019, which is 0.5 FTEs less than in its 2018 budget.²⁸

Commission Determination

19. Based on the information provided in the instant filing, we conclude that WIRAB's 2019 business plan and budget is reasonable and, accordingly, we accept WIRAB's 2019 business plan and budget.

The Commission orders:

- (A) NERC's 2019 business plan and budget is hereby accepted.
- (B) The Regional Entities' 2019 business plans and budgets are hereby accepted.
- (C) WIRAB's 2019 business plan and budget is hereby accepted.

By the Commission. Chairman McIntyre was not present at the Commission Meeting held on October 18, 2018 and did not vote on this item.

(S E A L)

Kimberly D. Bose,
Secretary.

²⁷ *Id.*, Attachment 11 (Western Interconnection Regional Advisory Body Proposed 2019 Business Plan and Budget) at 9-14.

²⁸ *Id.*, Attachment 11 at 18.