

November 9, 2021

**VIA ELECTRONIC FILING**

Mr. Neil Cunningham  
Director of Climate Change and Energy Branch  
Department of Sustainable Development  
1200-155 Carlton Street  
Winnipeg MB R3C 3H8

RE: *North American Electric Reliability Corporation*

Dear Mr. Cunningham:

The North American Electric Reliability Corporation (“NERC”) hereby submits Amendment to Notice of Filing of the North American Electric Reliability Corporation of its 2022 Business Plan and Budget and the 2022 Business Plan and Budget of the Relevant Regional Entity and of Proposed Assessments to Fund Budgets. NERC requests, to the extent necessary, a waiver of any applicable filing requirements with respect to this filing.

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

Sincerely,

/s/ Lauren Perotti

Lauren Perotti  
*Senior Counsel for the North American Electric  
Reliability Corporation*

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**BEFORE THE  
PROVINCE OF MANITOBA**

**NORTH AMERICAN ELECTRIC )  
RELIABILITY CORPORATION )**

**AMENDMENT TO NOTICE OF FILING OF THE  
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
OF ITS 2022 BUSINESS PLAN AND BUDGET AND  
THE 2022 BUSINESS PLAN AND BUDGET OF THE RELEVANT REGIONAL ENTITY  
AND OF PROPOSED ASSESSMENTS TO FUND BUDGETS**

The North American Electric Reliability Corporation (“NERC”) files this “Amendment to Notice of Filing of the North American Electric Reliability Corporation of its 2022 Business Plan and Budget and the 2022 Business Plans and Budgets of Regional Entities and of Proposed Assessments to Fund Budgets.” NERC’s original 2022 Business Plan and Budget (“Original Budget”) was filed on October 22, 2021. The proposed amendment to the Original Budget (“Budget Amendment”) is **Attachment 1** to this filing.<sup>1</sup>

**I. Introduction**

The purpose of this filing is to submit the Budget Amendment to NERC’s 2022 Original Budget, to include additional Fixed Asset expenditures NERC expects to incur in 2022 in connection with its anticipated move to a new headquarters office location in the Atlanta, Georgia, area (the “New Office Space”). The decision to pursue an early termination option in the lease for NERC’s current headquarters office in Atlanta (the “Current Office Space”) and to move to the New Office Space was not reached until after NERC finalized its 2022 Original Budget. While the Budget Amendment reflects additional Fixed Asset Additions expenditures for the New Office Space, the Budget Amendment does not provide for any increase from the Original Budget in

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<sup>1</sup> The Original Budget with the Budget Amendment is referred to herein as the “Amended Budget.”

NERC's 2022 statutory assessments. Additionally, no change to any Regional Entity's 2022 Business Plan and Budget is required or proposed.

## **II. Notices and Communications**

Notices and communications concerning this filing may be addressed to:

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## **III. Outreach to Stakeholders**

NERC conducted outreach to multiple stakeholders prior to consideration of the Budget Amendment by the NERC Finance and Audit Committee ("FAC") and Board of Trustees ("Board"),<sup>2</sup> and publicly posted the Budget Amendment showing the impact of the additional Fixed Asset Additions expenditures on NERC's 2022 Business Plan and Budget on September 14, 2021 for stakeholder review and comment. NERC received one set of supportive comments from the Canadian Electricity Association (CEA).<sup>3</sup>

## **IV. Amendment to NERC'S 2022 Business Plan and Budget**

NERC's lease for its Current Office Space in Atlanta provides an early termination option which must be exercised by October 31, 2021. If NERC exercises this option, the lease will terminate on October 31, 2022, and NERC will enter into a lease for the New Office Space. The additional Fixed Asset Additions expenditures included in the Budget Amendment are the

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<sup>2</sup> Stakeholder outreach included meetings with the Member Representatives Committee Business Plan & Budget Input Group, trade associations and Forums, and certain Canadian entities.

<sup>3</sup> The Budget Amendment and comments received are posted on the NERC website at: <https://www.nerc.com/gov/bot/FINANCE/Pages/2022NERCBusinessPlanandBudget.aspx>.

budgeted costs, to be incurred in 2022, for construction build-out and furnishings for the New Office Space, net of the landlord tenant improvement allowances that will be provided in the lease for the New Office Space.

On September 15, 2021, NERC filed with the Federal Energy Regulatory Commission (“FERC”) a “Request of the North American Electric Reliability Corporation to Expend Funds from Its Operating Contingency Reserve” (the “OCR Petition,” Docket No. RR20-6-001).<sup>4</sup> In the OCR Petition, NERC demonstrates that the decision to pursue the early termination option for the Current Office Space and move to the New Office Space under the lease terms that are being negotiated with that landlord is cost-effective and will result in overall cost savings that will be reflected in NERC’s future budgets in the coming years, with a three-year net present value savings (including relocation costs) of more than \$900,000.<sup>5</sup>

In this filing, NERC is submitting the Budget Amendment to include in its 2022 Business Plan and Budget the additional budgeted expenditure of \$800,000 during 2022 for construction build-out and furnishings, net of landlord tenant improvement allowances, at the New Office

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<sup>4</sup> In the OCR Petition, NERC requests FERC approval, pursuant to the terms of NERC’s Working Capital and Operating Reserve (“WCOR”) Policy and Paragraph 7(b)(ii) of the Settlement Order and Agreement in Docket No. FA11-21-000 (*N. Am. Elec. Reliability Corp.*, 142 FERC ¶ 61,042 (2013)), to expend up to \$2.0 million from its Operating Contingency Reserve (“OCR”) to make the early termination payment required by the Current Office Space lease in order to exercise the early termination option. Those costs will be incurred in 2021.

The Budget Amendment respectfully assumes that FERC will grant the OCR Petition (or take no action on it within 30 days, thereby deeming it approved). If FERC does not approve the OCR Petition, then NERC will not be able to exercise the early termination option in the Current Office Space lease, and therefore will not incur the construction build-out and furnishings costs for the New Office Space, making the Budget Amendment moot.

<sup>5</sup> As described in the OCR Petition, the costs savings result, in part, from a reduction in floor space at the New Office Space compared to the Current Office Space. This downsizing, in turn, reflects the “flexible work” experience gained during the Covid-19 pandemic which demonstrated that employees do not need to travel to and work in company office space five days per week in order to perform their assignments efficiently and effectively.

Space. As explained herein, NERC proposes to use approximately \$709,000 of accumulated funds in its Future Obligations Reserve<sup>6</sup> that will no longer be needed in connection with the Current Office Space, due to the early lease termination, as well as a lesser amount (approximately \$64,000) from the OCR, to pay for the net construction and furnishings costs at the New Office Space. These costs will be incurred during 2022.<sup>7</sup> By using funds from the OCR and Future Obligations Reserve to pay for the additional Fixed Asset expenditures, the need to increase the 2022 statutory assessments from the assessments proposed in the Original Budget is avoided.<sup>8</sup> On October 8, 2021, FERC issued an order accepting NERC's request to use funds from the OCR to pay for these expenses.<sup>9</sup>

The tables included in **Attachment 1** to this filing show the impact of the additional Fixed Asset Additions for the New Office Space on NERC's 2022 Business Plan and Budget:<sup>10</sup>

**Table 1:** Revised NERC total-company Statement of Activities with the additional Fixed Asset expenditures included, showing the line item changes due to the Budget Amendment.

**Table 2:** Table showing the Original Budget by NERC program area, for major budget categories of Funding (Assessments), Funding (Other), Direct Expenses, Indirect Expenses, Other Non-Operating Expenses, Total Expenses, Fixed Asset Additions, Net Financing Activity, Total Budget, and Change in Working Capital.

**Table 3:** Table showing the Amended Budget by NERC program area, for major budget

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<sup>6</sup> See description of the Future Obligations Reserve on pages 6-7 below.

<sup>7</sup> The \$800,000 amount for net construction build-out and furnishings costs and the proposed amounts of funds from the Future Obligations Reserve and the OCR, stated in this filing, are budget estimates. Only actual costs incurred will be recorded and only the actual amounts of funds required from the Future Obligations Reserve and the OCR for the actual costs will be used.

<sup>8</sup> If and to the extent that FERC views the planned expenditures from the Future Obligations Reserve as requiring approval or a waiver or variance pursuant to either or both the terms of the NERC WCOR Policy or the terms of the Settlement Order and Agreement in Docket No. FA11-21-000, NERC requested such approval, waiver and/or variance in its Amended Budget filing with FERC.

<sup>9</sup> *N. Am. Elec. Reliability Corp.*, Docket No. RR20-6-001 (Oct 8, 2021).

<sup>10</sup> These tables, along with an accompanying explanatory memorandum, were posted on the NERC website on September 14, 2021, for stakeholder review and comment on the proposed Budget Amendment. As noted earlier, one set of supportive comments was received, which is also posted on the NERC website.

categories of Funding (Assessments), Funding (Other), Direct Expenses, Indirect Expenses, Other Non-Operating Expenses, Total Expenses, Fixed Asset Additions, Net Financing Activity, Total Budget, and Change in Working Capital.

**Table 4:** Table showing the net change by NERC program area from the Original Budget to the Amended Budget, for major budget categories of Funding (Assessments), Funding (Other), Direct Expenses, Indirect Expenses, Other Non-Operating Expenses, Total Expenses, Fixed Asset Additions, Net Financing Activity, Total Budget, and Change in Working Capital.

**Table 5:** Amended Total Reserve Analysis (*i.e.*, amended Table B-1 for the 2022 NERC Business Plan and Budget) for the Amended Budget, reflecting the proposed use of Reserves to fund the additional Fixed Asset Additions expenditures for construction build-out and furnishings costs at the New Office Space.

As shown on **Tables 1** and **4**, NERC’s Amended Budget is increased by \$800,000 from the Original Budget. The additional Fixed Asset Additions expenditures for the New Office Space are budgeted as indirect costs which are allocated to the budgets of the statutory programs based on the ratios of each statutory program’s budgeted full-time equivalent (“FTE”) staffing to the total budgeted FTE staffing for the statutory programs.<sup>11</sup> The resulting changes for each statutory program from the Original Budget to the Amended Budget are shown on **Tables 3** and **4**.

Although the Amended Budget is increased by \$800,000, the Change in Working Capital (*i.e.*, reserves) is increased by a lesser amount, \$788,961, from the Original Budget. This difference occurs because for the Cybersecurity Risk Information Sharing Program (“CRISP”), which is funded in part by participants, Third-Party Funding is increased by \$11,038 (*see Table 4*) to fund the applicable portion of the additional Fixed Asset Additions allocation to CRISP. In addition, in the Personnel Certification and Continuing Education Program, the funding for the System Operator Certification Program (which is not funded by assessments) is budgeted based on expected revenue from program-related fees rather than budgeted expenses; therefore, the

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<sup>11</sup> The Amended Budget does not include any changes in staffing from the FTE staffing presented in the Original Budget.

Change in Working Capital for this program is adjusted. The Change in Working Capital necessitates an additional use of the System Operator Certification Reserve of \$15,815 (*see Table 4*). The overall impact on the Future Obligations Reserve and the OCR is to reduce them by (*i.e.*, use funds totaling) \$773,146 to fund the Fixed Asset Additions.<sup>12</sup> Of this amount, NERC has budgeted to draw \$708,893 from the Future Obligations Reserve (representing about 89% of the additional budgeted Fixed Asset Additions expenditures), and \$64,253 from the OCR (about 8% of the additional budgeted Fixed Asset Additions expenditures).

**V. Use of Funds from the Future Obligations Reserve to Pay for Construction Build-Out and Furnishings Costs at the New Office Space**

As stated above, NERC plans to primarily use funds in its Future Obligations Reserve that will no longer need to be held in that reserve account as a result of the early termination of the lease for the Current Office Space, to pay for most of the net construction build-out and furnishings costs at the New Office Space. Per NERC's WCOR Policy, the Future Obligations Reserve:

includes funding that has been received to satisfy future obligations under lease, credit, loan or other agreements to which the company is a party. An example is office lease funding that is in excess of actual office rent expense due to a landlord's partial abatement of rent and a budgeted lease expense based on straight line amortization of the rent expense over the term of the lease. In such a case, the surplus funding is being held to offset future rent expense . . . .

The example provided in the Future Obligation Reserve description in the WCOR Policy, above, depicts the situation with respect to the Current Office Space. For prior budgeting and accounting purposes, and consistent with Generally-Accepted Accounting Principles, NERC has amortized its rent expense ratably over the life of the lease on a straight-line basis; but because the landlord provided a tenant improvement allowance and rent abatement early in the lease term, and because the cash rent escalates over the life of the lease, NERC's actual cash rent costs were lower

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<sup>12</sup> \$800,000 minus \$11,038 minus \$15,815 = \$773,146.

in the early years of the lease term and are higher in the later years. Therefore, NERC has accumulated funds in the Future Obligations Reserve to be used to subsidize the higher cash rent costs in later years. Under NERC's WCOR Policy, this surplus funding has been accumulated and is being held in the Future Obligations Reserve to use to offset future rent expense.

In the event that NERC exercises the early termination of the lease for the Current Office Space, NERC will no longer need to pay the higher rent costs in the remaining years of the lease term, and funds that have been accumulated in the Future Obligations Reserve to pay such costs are then no longer needed for that purpose. Accordingly, NERC plans to use funds in the Future Obligations Reserve to pay for the net construction build-out and furnishings costs at the New Office Space – costs which are being incurred only because the Current Office Space lease is being terminated, thereby freeing up funds in the Future Obligations Reserve. Thus, these funds will continue to be used for their originally-intended purpose: leasehold costs for NERC's headquarters office, albeit for the New Office Space rather than the Current Office Space.

As noted earlier, the planned utilization of these funds from the Future Obligations Reserve will enable NERC to pay for the net construction build-out and furnishings costs for the New Office Space without raising its statutory assessments for 2022 from the assessments amount presented in the Original Budget.

**Table 5** provides an amended Total Reserve Analysis (*i.e.*, revised Table B-1) showing the adjustments to the reserves accounts in 2022 and the resulting reserves account balances at December 31, 2022, with the use of funds from the Future Obligations Reserve and the OCR to fund the net construction build-out and furnishing costs for the New Office Space in 2022 as described above. The projected Future Obligations Reserve balance at December 31, 2022 is \$426,672 (*i.e.*, \$708,893 lower than the balance shown on Table B-1 in the Original Budget). The



projected OCR balance at December 31, 2022 is \$4,291,542 (*i.e.*, \$1,976,665 lower than the balance shown in Table B-1 in the Original Budget), reflecting both (i) the use of \$64,253 in 2022 to fund a portion of the net construction build-out and furnishings costs for the New Office Space, and (ii) the projected use of approximately \$1.9 million from the OCR in 2021 to fund the early termination payment for the Current Office Space, as described in the OCR Petition.<sup>13</sup> The projected OCR balance at December 31, 2022 of \$4,291,542 is approximately 5.5% of the budget baseline (using the Amended Budget), which is within the policy target range of 3.5% to 7.0% provided in the WCOR Policy.

## **VI. NERC FAC and Board Approvals for the Budget Amendment**

On September 28, 2021, the NERC FAC reviewed the Budget Amendment, including the proposed uses of funds from the Future Obligations Reserve and the OCR to pay for the net construction build-out and furnishings costs at the New Office Space, and recommended approval by the NERC Board.<sup>14</sup> Also on September 28, 2021, the NERC Board reviewed the Budget Amendment, considered the FAC's recommendation, and voted to approve the Budget Amendment and directed that it be filed with the applicable governmental authorities.

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<sup>13</sup> The OCR Petition requests approval to use up to \$2.0 million in the OCR in 2021 for the early termination payment for the Current Office Space. Only the actual cost incurred will be recorded.

<sup>14</sup> In accordance with the NERC Bylaws, information on the proposed Budget Amendment was posted on the NERC website for stakeholder review and comment on September 14, 2021. In accordance with Article XIII, §5 of the Bylaws, the Board determined that a shortened stakeholder comment period was appropriate based on the exigencies of the circumstances resulting in the Budget Amendment, taking into account that the Budget Amendment does not reflect any increase in assessments for 2022 from the Original Budget. As noted earlier, one set of supportive comments was received.

Respectfully submitted,

/s/ Nina H. Jenkins-Johnston

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**ATTACHMENT 1 - BUDGET AMENDMENT**