

161 FERC ¶ 61,131
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur, and Robert F. Powelson.

North American Electric Reliability Corporation

Docket No. RR17-7-000

ORDER ACCEPTING 2018 BUSINESS PLANS AND BUDGETS

(Issued November 1, 2017)

1. On August 23, 2017, the North American Electric Reliability Corporation (NERC) filed 2018 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 2018 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 2018 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 Standards, subject to Commission review and approval.² In July 2006, the Commission certified NERC as the ERO.³

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

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,

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.

B. NERC Application

4. The NERC Application contains NERC’s proposed business plan and budget for the year ending December 31, 2018, as well as the proposed business plans and budgets of each of the eight Regional Entities and WIRAB for the year ending December 31, 2018.

5. NERC states that it prepared its 2018 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

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) (2017).

to NERC, successive versions of the 2018 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 2018 allocable to the United States is \$162,112,131, which includes \$56,968,506 for NERC funding; \$104,544,752 for Regional Entity funding; and \$598,873 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 \$0.0000407 per kWh, based on the aggregate net energy for load of the United States in 2016.¹⁰

7. In addition to the NERC, Regional Entity, and WIRAB business plans and budgets, the NERC Application contains various attachments including: Discussion of Comments Received During Development of NERC's 2018 Business Plan and Budget (Attachment 12); Calculation of Adjustments for the Alberta Electric System Operator, Ontario Independent Electric System Operator, New Brunswick, and Quebec 2018 NERC Assessments (Attachment 13); Metrics Comparing Regional Entity Operations Based on the 2018 Budgets (Attachment 14); and Metrics on NERC and Regional Entity Administrative (Indirect) Costs Based on the 2017 and 2018 Budgets (Attachment 15).

II. Notice and Responsive Pleadings

8. Notice of NERC's August 23, 2017 filing was published in the *Federal Register*, 82 Fed. Reg. 41,400 (2017), with interventions and protests due on or before September 13, 2017. No motions to intervene were filed.

9. On August 29, David Bardin (Mr. Bardin) filed comments noting that in his prior comments submitted to NERC as part of the budget development process, he suggested that NERC should provide additional funding for its geomagnetic disturbance (GMD) research. Mr. Bardin requests that the Commission require NERC to submit quarterly reports detailing NERC's progress in its GMD research.

⁸ NERC Application at 3.

⁹ *Id.*, Attachment 1 (Summary Tables for NERC and Regional Entity Proposed 2018 Budgets and Assessments) at 2.

¹⁰ *Id.* at 28.

III. Discussion

A. NERC Business Plan and Budget

10. NERC states that its 2018 business plan and budget is based on the following program areas: (1) Reliability Standards; (2) Compliance Monitoring and Enforcement and Organization Registration and Certification; (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 2018. NERC also provides 2017 accepted budget data and 2017 year-end projected data for comparison to the 2018 proposed budget data.

11. NERC's proposed total funding requirement for 2018 is \$72,981,221, which is an increase of \$2,829,561 (4.0 percent) over NERC's 2017 total funding requirement of \$70,151,660.¹² NERC's proposed 2018 net funding requirement is \$62,936,968 (i.e., the total funding requirement less \$10,044,253 in funding from other sources), of which \$56,968,506 is allocated to the United States.¹³

12. NERC states that the proposed 2018 business plan and budget reflects a provision for working capital and operating reserve funding in the amount of \$77,458.¹⁴ Finally,

¹¹ *Id.* at 7-8.

¹² *Id.* at 16. NERC also states that its 2018 budget, excluding E-ISAC costs, is 0.4 percent higher than its 2017 budget excluding E-ISAC costs, while the 2018 budget for the E-ISAC is \$3,335,256 (18.0 percent) higher than its 2017 budget for the E-ISAC. *Id.*

¹³ *Id.* at 16-17, Attachment 2 (NERC Proposed 2018 Business Plan and Budget) at 5. 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 16-17.

¹⁴ *Id.* at 16.

NERC proposes a 2018 staffing level of 199.29 FTEs, an increase of 9.40 FTEs from 2017 budget staffing levels.¹⁵

13. NERC states that it received \$500,000 in penalty monies for the period of July 1, 2016 through June 30, 2017.¹⁶ In accordance with the Commission's June 18, 2015 order,¹⁷ 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 \$600,000 of funds from the assessment stabilization reserve to reduce 2018 assessments. NERC states that these actions will leave a balance of \$1,571,000 in the assessment stabilization reserve for use to offset and stabilize assessments in future years' budgets.¹⁸

Commission Determination

14. We accept NERC's 2018 business plan and budget. We find that NERC's 2018 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 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 \$600,000 from the assessment stabilization reserve (i.e., a net withdrawal of \$100,000). We note that the decision here is limited to this case. Any future requests for an exception to section 1107.2 of the NERC Rules of Procedure will be addressed based on the facts at that time.

15. We determine not to require NERC to submit quarterly reports on progress regarding GMD research, as requested by Mr. Bardin, as this request is beyond the scope of this proceeding. However, we note that the Commission recently required NERC to submit a final, or otherwise updated, GMD Work Plan within six months of the date of issuance of the recent order in Docket No. RM15-11-002 and to continue to provide

¹⁵ *Id.*, Attachment 2 at 18.

¹⁶ *Id.* at 43-44.

¹⁷ *North American Electric Reliability Corp.*, 151 FERC ¶ 61,225, at P 19 (2015).

¹⁸ NERC Application at 43-44.

informal progress updates with Commission staff.¹⁹ We also note that NERC may submit a supplemental budget request if it finds that additional funds are necessary to meet its statutory mission.²⁰

B. Regional Entity Business Plans and Budgets

16. NERC's Application includes the 2018 business plans and budgets of each Regional Entity. The proposed total assessment for the Regional Entities that is allocable to the United States is \$104,544,752, which represents a \$4,798,178 (4.8 percent) increase from 2017.²¹ 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.²²

Commission Determination

17. 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

18. WIRAB proposes statutory expenses of \$1,067,785 in 2018, which is a \$161,295 (13.1 percent) decrease from its 2017 budget.²³ To fund its operations in 2018, WIRAB proposes a statutory assessment of \$711,026, of which \$598,873 would be allocable to end users in the United States.²⁴

¹⁹ *Reliability Standard for Transmission System Planned Performance for Geomagnetic Disturbance Events*, 161 FERC ¶ 61,048 (2017).

²⁰ 18 C.F.R. § 39.4(d) (2017).

²¹ NERC Application at 22, Attachment 1 at 2.

²² *Id.* at 48.

²³ *Id.* at 66.

²⁴ *Id.*, Attachment 11 (Western Interconnection Regional Advisory Body Proposed 2018 Business Plan and Budget) at 3.

19. WIRAB notes that its proposed key activities in 2018 include the following: (1) advising WECC on the implications of high levels of deployment of solar photovoltaic generation on the reliable operation of the bulk electric system; (2) advising WECC on interdependencies between the natural gas and electric industries in the West and the implications for the reliable operation of the bulk electric system; (3) encouraging WECC to systematically assess the availability of Essential Reliability Services under a wide-range of future resource scenarios; and (4) encouraging the Member Advisory Committees at WECC and Peak Reliability to increase their focus on emerging reliability issues and to improve their processes for advising the Boards of Directors of WECC and Peak Reliability.²⁵ WIRAB's budget includes 5.5 FTEs for 2018, which is the same as in its 2017 budget.²⁶

Commission Determination

20. Based on the information provided in the instant filing, we conclude that WIRAB's 2018 business plan and budget is reasonable and, accordingly, we accept WIRAB's 2018 business plan and budget.

The Commission orders:

- (A) NERC's 2018 business plan and budget is hereby accepted.
- (B) The Regional Entities' 2018 business plans and budgets are hereby accepted.
- (C) WIRAB's 2018 business plan and budget is hereby accepted.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

²⁵ *Id.*, Attachment 11 at 8-15.

²⁶ *Id.*, Attachment 11 at 15.