

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

North American Electric Reliability Corporation)	Docket No. RR15-16-000
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MOTION FOR LEAVE TO ANSWER PROTESTS AND ANSWER OF NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION AND WESTERN ELECTRICITY COORDINATING COUNCIL

Pursuant to Rules 212 and 213 of the Federal Energy Regulatory Commission’s (“FERC” or the “Commission”) Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.213, the North American Electric Reliability Corporation (“NERC”) and the Western Electricity Coordinating Council (“WECC”) hereby move to answer the Joint Comments of Avista Corporation, Idaho Power Company, Portland General Electric Company, and Tri-State Generation and Transmission Association, Inc. (“Joint Comments”)¹ and the comments of Public Utility District No. 1 of Snohomish County, Washington (“Snohomish Comments”).² The Joint Comments and Snohomish Comments merit a response to ensure that the Commission has an accurate record regarding the activities to be funded in the NERC Request for Acceptance of its

¹ Joint Comments of Avista Corporation, Idaho Power Company, Portland General Electric Company, and Tri-State Generation and Transmission Association, Inc., Docket No. RR15-16-000 (Sept. 14, 2015) (hereinafter “Joint Comments”).

² Motion to Intervene Out of Time and Comments of Public Utility District No. 1 of Snohomish County, Washington, Docket No. RR15-16-000 (Sept. 21, 2015) (hereinafter “Snohomish Comments”).

2016 Business Plan and Budget and the 2016 Business Plans and Budgets of Regional Entities (“Budget Filing”).³

I. NOTICES AND COMMUNICATIONS

Notices and communications concerning these comments should be addressed to:⁴

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II. MOTION FOR LEAVE TO ANSWER

Given that the Joint Comments request that the Commission reject the Budget Filing to the extent that it attempts to fund certain WECC activities through Section 215 of the Federal Power

³ Request of North American Electric Reliability Corporation for Acceptance of its 2016 Business Plan and Budget and the 2016 Business Plans and Budgets of Regional Entities and for Approval of Proposed Assessments to Fund Budgets, Docket No. RR15-16-000 (Aug. 24, 2015) (hereinafter “Budget Filing”).

⁴ Persons to be included on the Commission’s service list are identified by an asterisk. NERC respectfully requests a waiver of Rule 203 of the Commission’s regulations, 18 C.F.R. § 385.203 (2015), to allow the inclusion of more than two persons on the service list in this proceeding.

Act (“Section 215”)⁵, the Joint Comments should be considered a protest. In addition, given the Snohomish Comments seek to eliminate Section 215 funding for certain WECC activities, the Snohomish Comments should also be considered a protest. The Commission’s rules generally do not permit the filing of answers to protests; however, the Commission has granted leave to file such answers if they clarify the issues in dispute, ensure a complete and accurate record, or otherwise provide information that will assist the Commission in its decision-making process.⁶ To ensure that the Commission has complete and accurate information upon which to make a decision on the Budget Filing, NERC and WECC request leave to submit this Answer to the Joint Comments and the Snohomish Comments.

III. BACKGROUND

On August 24, 2015, NERC submitted its Budget Filing to the Commission requesting that the Commission approve the 2016 business plans and budgets of NERC and the Regional Entities. The WECC 2016 Business Plan and Budget, in pertinent part, includes as statutory activities the WECC Reliability Assessment and Performance Analysis (“RAPA”) activities, including the WECC Transmission Expansion Planning Policy Committee (“TEPPC”) activities and WECC Market Interface Committee (“MIC”) activities, and the WECC Situation Awareness and Infrastructure Security (“SAIS”) activities.

⁵ 16 U.S.C. § 824o (2012).

⁶ See, e.g., *San Diego Gas & Elec. Co. v. Sellers of Energy and Ancillary Servs.*, 108 FERC ¶ 61,219, at P 14, n. 17 (2004) (answer was accepted as it “provided information that assisted [the Commission in its] decision-making process”); *Mich. Elec. Transmission Co., LLC*, 106 FERC ¶ 61,064, at P 3 (2004) (the permitted answer “provides information that clarifies the issues and aids us in the decisional process”); *N. Am. Elec. Reliability Corp.*, 116 FERC ¶ 61,062, at P 24 (2006) (reply comments of NERC and others accepted “because they have provided information that assisted us in our decision making process”); *N. Am. Elec. Reliability Corp.*, 117 FERC ¶ 61,091, at P 18 (2006) (same); *N. Am. Elec. Reliability Corp.*, 119 FERC ¶ 61,248, at P 6 (2007); *N. Am. Elec. Reliability Corp.*, 127 FERC ¶ 61,209, at P 5 (2009).

On September 14, 2015, Avista Corporation, Idaho Power Company, Portland General Electric Company, and Tri-State Generation and Transmission Association, Inc. (“Joint Commenters”) filed the Joint Comments arguing that WECC’s RAPA and SAIS activities are not eligible for funding under Section 215. Specifically, the Joint Commenters argue that only activities related to Reliability Standard development and enforcement may be delegated to a Regional Entity and funded under Section 215.⁷ The Joint Commenters also argue that while NERC may conduct and fund periodic assessments of the reliability and adequacy of the Bulk-Power System (“BPS”) under Section 215, these activities may not be delegated to or funded by a Regional Entity under Section 215.⁸ Consequently, the Joint Commenters argue that WECC’s RAPA and SAIS activities are not eligible to be funded by WECC under Section 215.

On September 21, 2015, Public Utility District No. 1 of Snohomish County, Washington (“Snohomish”) filed the Snohomish Comments arguing that WECC’s TEPPC and MIC activities are not eligible to be funded under Section 215. Specifically, Snohomish argues that certain TEPPC activities are predominantly commercial in nature, as opposed to reliability-related, and thus are outside the scope of Section 215 and should be funded through non-statutory funding.⁹ Snohomish also argues that certain WECC market seams and coordination activities are also predominantly commercial in nature, as opposed to reliability-related, and thus are outside the scope of Section 215 and should be funded through non-statutory funding.¹⁰ For the reasons set forth below, NERC and WECC disagree with the positions taken by the Joint Commenters and Snohomish.

⁷ See Joint Comments at pp. 3-5.

⁸ *Id.* at p. 4.

⁹ See Snohomish Comments at pp. 6-7.

¹⁰ See *id.* at pp. 7-8.

IV. ANSWER

In this answer, NERC and WECC clarify the following four points in response to the Joint Commenters and Snohomish:

- The Commission has consistently approved the funding of RAPA and Situation Awareness delegation-related activities, pursuant to Section 215.
- WECC has developed funding criteria which closely track NERC's written criteria for determining whether an activity may be funded under Section 215.
- WECC's RAPA and Situation Awareness activities satisfy the NERC and WECC criteria.
- The Commission has consistently approved the Section 215 funding of the very WECC RAPA and Situation Awareness activities called into question by the Joint Commenters and Snohomish.

a. The Commission Has Consistently Approved the Funding of RAPA and Situation Awareness Delegation-Related Activities.

In its order conditionally accepting the first set of business plans and budgets of NERC and the Regional Entities in 2007,¹¹ FERC found that each of the activities identified by NERC were appropriately funded under Section 215 for both NERC and the Regional Entities:

NERC's proposed activities are the same that we find to be within the ambit of FPA section 215 and thus entitled to receive funding pursuant to section 215 of the FPA for the ERO and should be statutory in the context of the Regional Entities. We see no reason why they would differ on a regional basis.¹²

The activities proposed by NERC and approved by the Commission were: (1) Reliability Standards; (2) compliance enforcement and organization registration and certification; (3)

¹¹ *N. Am. Elec. Reliability Corp.*, 117 FERC ¶ 61,091 (2006).

¹² *Id.* at P 38.

reliability readiness audits and improvement; (4) training, education and operator certification; (5) reliability assessment and performance analysis; (6) situation awareness and infrastructure security; and (7) administrative services.¹³ Thus, since the inception of the NERC and Regional Entity business planning and budgeting process under Section 215, the Commission has approved these activities as statutory and delegation-related, and thus appropriately funded by the Section 215 assessment process. Furthermore, the operative language in Sections 4 through 7 of the Regional Delegation Agreements, which describes the delegated functions and the delegation-related activities that the Regional Entities will perform, appears in all eight RDAs. The Commission has consistently approved this language in each iteration of the Regional Delegation Agreements.¹⁴ In the case of the WECC business plan and budget, and relevant to this answer, the Commission consistently approved WECC's RAPA and SAIS activities for Section 215 funding.¹⁵

¹³ *Id.* at PP 54 and 64.

¹⁴ *See generally* *N. Am. Elec. Reliability Corp.*, 121 FERC ¶ 61,057 (2007); *N. Am. Elec. Reliability Corp.*, 125 FERC ¶ 61,056 (2008); *N. Am. Elec. Reliability Corp.*, 129 FERC ¶ 61,040 (2009); *N. Am. Elec. Reliability Corp.*, 133 FERC ¶ 61,062 (2010); *N. Am. Elec. Reliability Corp.*, 137 FERC ¶ 61,071 (2011); *N. Am. Elec. Reliability Corp.*, 141 FERC ¶ 61,086 (2012); *N. Am. Elec. Reliability Corp.*, 145 FERC ¶ 61,097 (2013); *N. Am. Elec. Reliability Corp.*, 149 FERC ¶ 61,028 (2014); *see also* Order Conditionally Approving Revised Pro Forma Delegation Agreement, Revised Delegation Agreements with Regional Entities, Amendments to Rules of Procedure and Certain Regional Entity Bylaws, 133 FERC ¶ 61,061 (Oct. 21, 2010); Order on Compliance Filing, 137 FERC ¶ 61,028 (Oct. 7, 2011).

¹⁵ North American Electric Reliability Corporation 2007 Business Plan and Budget and the 2007 Business Plans and Budgets of Regional Entities, Docket No. RR06-3-000 (Aug. 23, 2006) at Attachment 2 pp. 6-9 of the 2007 WECC Business Plan and Budget; Request of the North American Electric Reliability Corporation for Acceptance of its 2008 Business Plan and Budget and the 2008 Business Plans and Budgets of Regional Entities and for Approval of Proposed Assessments to Fund Budgets, Docket No. RR07-16-000 (Aug. 31, 2007) at Attachment 2 pp. 13-18 of the 2008 WECC Business Plan and Budget; Request of the North American Electric Reliability Corporation for Acceptance of its 2009 Business Plan and Budget, 2009 Business Plans and Budgets of Regional Entities and for Approval of Proposed Assessments to Fund Budgets, Docket No. RR08-6-000 (Aug. 22, 2008) at Attachment 10 pp. 31-41 of the 2009 WECC Business Plan and Budget; North American Electric Reliability Corporation 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, Docket No. RR09-9-000 (Aug. 24, 2009) at Attachment 10 pp. 30-40 of the 2010 WECC Business Plan and Budget; Request of the North American Electric Reliability Corporation for Acceptance of its 2011 Business Plan and Budget and the 2011 Business Plans and Budgets of Regional Entities and for Approval of Proposed Assessments to Fund Budgets, Docket No. RR10-13-000 (Aug. 24, 2010) at Attachment 10 pp. 24-28 and 32-36 of the 2011 WECC Business Plan and Budget; Request of the North American Electric Reliability Corporation for Acceptance of its 2012 Business Plan and Budget and the 2012 Business Plans and Budgets of Regional Entities and for Approval of Proposed Assessments to Fund Budgets,

In response to FERC’s 2011 budget audit of NERC, NERC developed written criteria for determining whether a NERC activity may be funded under Section 215 (“NERC Funding Criteria”). These NERC Funding Criteria were subsequently approved by the Commission.¹⁶ Likewise, in response to FERC’s 2011 budget audit of WECC, WECC also developed written criteria for determining whether a WECC activity may be funded under Section 215 (“WECC Funding Criteria”) that were based on, and essentially identical to the Commission-approved NERC Funding Criteria.¹⁷ Criterion III of the WECC Funding Criteria states: “Is the activity necessary or appropriate for conducting and disseminating periodic assessments of the reliability of the Bulk Power System or monitoring the reliability of the Bulk Power System?” Likewise, Criterion V asks: “Is the activity one that is required or specified by, or carries out, the provisions of NERC’s Rules of Procedure that have been approved by the Commission as ‘Electric Reliability Organization Rules’ (defined in 18 C.F.R. §39.1) pursuant to FPA §215(f)?”

b. WECC’s RAPA Activities Comply with the Rules of Procedure and Satisfy the NERC and WECC Funding Criteria for Section 215 Funding.

Section 800 of the NERC ROP addresses the Electric Reliability Organization (“ERO”) processes for RAPA activities. WECC’s RAPA activities include a variety of studies and

Docket No. RR11-7-000 (Aug. 24, 2011) at Attachment 10 pp. 25-30 and 35-39 of the 2012 WECC Business Plan and Budget; Request of the North American Electric Reliability Corporation for Acceptance of its 2013 Business Plan and Budget and the 2013 Business Plans and Budgets of Regional Entities and for Approval of Proposed Assessments to Fund Budgets, Docket No. RR12-13-000 (Aug. 24, 2012) at Attachment 10 pp. 24-29 and 34-38 of the 2013 WECC Business Plan and Budget; Request of the North American Electric Reliability Corporation for Acceptance of its 2014 Business Plan and Budget and the 2014 Business Plans and Budgets of Regional Entities and for Approval of Proposed Assessments to Fund Budgets, Docket No. RR13-9-000 (Aug. 23, 2013) at Attachment 10 pp. 24-28 and 33-35 of the 2014 WECC Business Plan and Budget; Request of the North American Electric Reliability Corporation for Acceptance of its 2015 Business Plan and Budget and the 2015 Business Plans and Budgets of Regional Entities and for Approval of Proposed Assessments to Fund Budgets, Docket No. RR14-6-000 (Aug. 22, 2014) at Attachment 10 pp. 20-23 and 28-30 of the 2015 WECC Business Plan and Budget.

¹⁶ *N. Am. Elec. Reliability Corp.*, 143 FERC ¶ 61,052 (2013) (the criteria were approved with modifications).

¹⁷ The WECC Funding Criteria were provided to FERC Audit Staff and are publicly posted on the WECC website at https://www.wecc.biz/_layouts/15/WopiFrame.aspx?sourcedoc=/Administrative/WECC%20Criteria%20for%20Determining%20Eligibility%20for%202015%20Funding.pdf&action=default&DefaultItemOpen=1.

assessments essential to the reliable planning and operation of the BPS in the Western Interconnection. In addition, WECC compiles and distributes planning data and information that is used by WECC stakeholders to aid in local planning studies. These integrated planning efforts enhance WECC's overall ability to participate in, and respond to, the major planning and public policy reliability issues emerging both in the Western Interconnection and nationally. WECC's RAPA activities, including the work of the TEPPC and MIC, support one or more the following RAPA activities under Sections 802 and 805 of the NERC ROP:

- review, assess, and report on the overall transmission reliability (adequacy and operating reliability) of the interconnected Bulk Power Systems, both existing and as planned;
- assess and report on the key issues, risks, and uncertainties that affect or have the potential to affect the reliability of existing and future electric transmission;
- review, analyze, and report on Regional Entity self-assessments of bulk power transmission reliability, including reliability issues of specific regional concern;
- identify, analyze, and project trends in electric customer transmission and their impacts on Bulk Power System reliability; and,
- collect data on regional planning study reports, interregional planning study reports, and/or regional operational study reports.

In addition, WECC provides RAPA support to NERC RAPA activities under Section 804 of the NERC ROP by providing data and other information, including the Regional Entity's self-assessment report, requested by NERC in support of the annual long-term and seasonal assessments and any special reliability assessments. Therefore, these activities fall within the

WECC Funding Criteria. The Snohomish Comments specifically concern WECC's TEPPC and MIC activities so we address them here in more detail.

1. TEPPC Activities

The predominant transmission planning database maintained by TEPPC is the 10-Year Common Case which describes the loads, generation and transmission topology that is expected to be in place in 10 years' time. This 10-Year Common Case is used in production cost simulations suggested by WECC stakeholders to identify potential congestion that could threaten reliability. Other TEPPC databases and activities expand on or support these 10-Year Common Case activities. In addition, the development of regional planning processes and policies helps to promote coordinated and consistent planning across the Western Interconnection. Given the interconnected nature of the BPS, it is critical that planning is coordinated and consistent to ensure the reliability of the BPS. Therefore, TEPPC's activities are appropriately viewed as assessment activities described in the NERC and WECC Funding Criteria in that they are necessary or appropriate for: (1) the preparation or dissemination of long-term assessments of the reliability and adequacy of the BPS,¹⁸ and (2) awareness of circumstances on the BPS and contribute to understanding risks to reliability.¹⁹

2. MIC Activities

WECC's market-interfacing activities are predominantly carried out by its MIC. The committee is called an "interface" committee because it focuses on the interface of reliability and market operations. The MIC limits its market interface activities to only those that impact reliability and it expressly avoids any market activities that have no reliability implications. When

¹⁸ Criterion III.A.

¹⁹ Criterion III.D.

an activity is purely market oriented, with no reliability considerations, the MIC leaves the coordination of those activities to market participants and the North American Energy Standards Board (“NAESB”). One of the explicit responsibilities of the MIC is to “consider matters pertaining to the impact of WECC’s reliability standards, practices, and procedures on the commercial electricity market in the Western Interconnection”²⁰ The MIC may also participate in identifying issues and developing recommendations for Regional Criteria²¹ related to market interface issues.

As is the case with WECC’s TEPPC activities, Section 215 funding of the MIC’s activities is supported by the NERC and WECC Funding Criteria since Section 802 of the NERC ROP specifies that the scope of the RAPA includes, in pertinent part: “Investigate, assess, and report on the potential impacts of new and evolving electricity market practices . . . on the adequacy and operating reliability of the Bulk Power Systems.”²² In addition, the MIC’s review of a Reliability Standard’s impact on the commercial electricity markets in the Western Interconnection is consistent with Section 303 of the NERC ROP which requires that Reliability Standards meet certain market-related objectives; specifically those dealing with: competition, market structure, market solutions, commercially sensitive information, and adequacy.²³ Finally, the MIC’s

²⁰ WECC Bylaws, Section 8.2.5.

²¹ As defined in Appendix 2 to the NERC ROP, “Regional Criteria” are reliability requirements developed by a Regional Entity that are necessary to implement, to augment, or to comply with Reliability Standards, but which are not Reliability Standards. Such Regional Criteria may be necessary to account for physical differences in the Bulk Power System but are not inconsistent with Reliability Standards nor do they result in lesser reliability. Such Regional Criteria are not enforceable pursuant to NERC-delegated authorities, but may be enforced through other available mechanisms. Regional Criteria may include specific acceptable operating or planning parameters, guides, agreements, protocols or other documents.

²² NERC ROP Section 802.1.5.

²³ NERC ROP Section 303.

participation with respect to Regional Criteria is consistent with Section 313 of the NERC ROP which allows Regional Entities to develop Regional Criteria as described therein.²⁴

c. WECC's SAIS Activities Comply with the NERC Rules of Procedure and Satisfy the NERC and WECC Funding Criteria for Section 215 Funding.

Section 1000 of the NERC ROP addresses the ERO processes for Situation Awareness. The work of the SAIS encompasses the Situation Awareness activities contemplated under Section 1000 of the NERC ROP:

- maintain real-time situation awareness of conditions on the Bulk Power System;
- notify industry of significant Bulk Power System events that have occurred in one area, and which have the potential to impact reliability in other areas;
- maintain and strengthen high-level communication, coordination, and cooperation with governments and government agencies regarding real-time conditions; and,
- enable the reliable operation of interconnected Bulk Power Systems by facilitating information exchange and coordination among reliability service organizations.

With respect to SAIS, WECC's activities include maintaining near real-time awareness and assessing risks about the conditions and significant occurrences on the BPS in the Western Interconnection, with the objective of recognizing conditions and situations that could impact the reliability of the BPS. WECC has access to limited real-time data via the Situation Awareness for NERC, FERC and the Regional Entities ("SAFNR") tool. WECC's role is to understand system issues when they emerge and coordinate with relevant parties (typically NERC and FERC) about the conditions of the BPS. Through this coordination, WECC seeks to discern patterns and identify trends and risks in order to use all the tools available to influence and help build a stronger and

²⁴ NERC ROP Section 313.

more resilient system. Additionally, personnel respond to events by providing coordination, assistance and communication with Peak Reliability, stakeholders, WECC management, and NERC SAIS personnel. As the Commission is aware, WECC performs all situation awareness activities except the Reliability Coordinator function which is performed by Peak Reliability, an independent entity operated and governed completely separate from WECC.²⁵

d. WECC's Proposed 2016 Business Plan and Budget Includes the Same Types of RAPA and SAIS Activities that the Commission Has Previously Approved.

While specific activities may differ from year to year, WECC continues to perform the same types of RAPA and SAIS activities that it has historically performed and that have consistently been approved by the Commission in regional delegation agreement and business plan and budget filings since 2007. NERC and WECC note that WECC has no intention, and nothing in the Budget Filing suggests that WECC has any intention, of undertaking transmission planning obligations under FERC Order No. 1000 or operating an energy imbalance market, both activities having been cited by Snohomish as possible concerns.

V. CONCLUSION

WECC's RAPA activities (including WECC's TEPPC and MIC activities) and WECC's SAIS activities are appropriately funded under Section 215 and are crucial to the reliability of the BPS in the Western Interconnection. NERC and WECC respectfully request that the Commission approve NERC and WECC's Motion for Leave to Answer Protests and accept NERC and WECC's Answer, as contained herein, and that the Commission approve the NERC Budget Filing.

²⁵ Informational Filing of Peak Reliability, Docket No. RR13-12-000 (Aug. 11, 2015).

Respectfully submitted this 30th day of September, 2015.

NORTH AMERICAN ELECTRIC RELIABILITY
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CERTIFICATE OF SERVICE

I hereby certify I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 30th day of September 2015.

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