

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

**North American Electric Reliability  
Corporation**                    )

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**Docket No. FA11-21-\_\_\_**

**PETITION OF THE NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
FOR APPROVAL OF REVISIONS TO THE NERC WORKING CAPITAL AND  
RESERVES POLICY**

Pursuant to the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Order Modifying Settlement Agreement and Directing Compliance Filing in the above-captioned docket,<sup>1</sup> the North American Electric Reliability Corporation (“NERC”) respectfully submits proposed revisions to its Working Capital and Reserves Policy (the “Policy”) for Commission approval. In the Order Modifying Settlement Agreement, the Commission approved modifications to Section II.7(b)(ii) of the Settlement Agreement between the FERC Office of Enforcement (“Enforcement”) and NERC related to Enforcement’s findings and recommendations arising out of its 2012 performance audit of NERC.<sup>2</sup> As directed by the Commission, the purpose of the bulk of the proposed revisions to the Policy is to reflect the terms of the revised Settlement Agreement. NERC is also proposing additional administrative modifications to the Policy, which had last been updated in 2015, to, among other things, update the target range for Operating Contingency Reserves, clarify the description of various NERC reserves already in existence, and reflect Cybersecurity Risk Information Sharing Program (“CRISP”) reserve categories and approval

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<sup>1</sup> *N. Am. Elec. Reliability Corp.*, 185 FERC ¶ 61,055 (2023) [hereinafter Order Modifying Settlement Agreement].

<sup>2</sup> *N. Am. Elec. Reliability Corp.*, 142 FERC ¶ 61,042 (2013) [hereinafter Order Approving Settlement Agreement].

processes for CRISP participant-funded reserve usage, consistent with prior Commission approval, as further described herein.

Clean and redline versions of the revised Policy are attached hereto as Attachment 1 and 2, respectively. The NERC Board of Trustees (“Board”) approved the revised Policy on December 12, 2023.

## **I. Background**

In its Order Approving Settlement Agreement, the Commission approved the Settlement Agreement between Enforcement and NERC that resolved all outstanding issues related to the 2012 performance audit and related paper hearing. Section II.7(b) of the Settlement Agreement addresses the transparency of NERC’s budget process. Section II.7(b)(i) requires quarterly budget variance reports to be filed with the Commission. Section II.7(b)(ii) of the Settlement Agreement requires NERC to file for Commission review and approval certain unbudgeted proposed expenditures from reserves or the re-direction of certain previously budgeted funds.

In the Order Modifying Settlement Agreement, the Commission approved modifications to Section II.7(b)(ii) of the Settlement Agreement to (1) raise the threshold for approval filings to 5% of the Commission-approved NERC Business Plan and Budget (“BP&B”), (2) clarify the type of re-direction of previously budgeted funds subject to Commission review and approval, and (3) require NERC to make informational filings for expenditures of Operating Reserves and redirection of budgeted funds between 3-5% of NERC Business Plan and budget.

More specifically, under the revised Settlement Agreement, Section 7(b) now provides for the following framework:

- NERC must seek FERC approval to (1) expend unbudgeted funds from NERC’s Operating Reserves that are, per occurrence, 5% or more of the Commission-approved NERC BP&B, or (2) redirect budgeted funds that are, per occurrence, 5% or more of the Commission-approved NERC BP&B from one of the following program areas: Bulk

Power System Awareness; Compliance and Enforcement; portions of Electricity ISAC that are not participant funded; Event Analysis, Reliability Assessment, and Performance Analysis; Registration and Certification; Standards; and Personnel Certification and Credential Maintenance Program, to another program area.

- If the expenditure of Operating Reserves or the redirection of funds from one of the listed program areas to another program area is between 3%-5%, NERC is not required to seek FERC approval but must submit an information filing describing the expenditure of Operating Reserves or redirection. Each such informational filing shall be submitted thirty days prior to the expenditure or redirection of funds, or as soon as practicable, if the expenditure or redirection of funds requires NERC to act sooner than that.
- If the expenditure from Operating Reserves or the redirection of funds from one of the listed program areas to another program area is less than 3%, then no separate FERC filing is required (for approval or informational), although NERC would describe the expenditure or redirection in its quarterly variance reports to FERC required under Section II.7(b)(i) of the Settlement Agreement.
- The Section 7(b)(ii) filing requirements do not apply to any redirection of budgeted funds from or expenditures of reserves specific to participant funded programs, such as CRISP.

In the Order Modifying Settlement Agreement, the Commission also directed NERC to make a compliance filing within 60 days of the date of the order proposing revisions to the Policy, as well as any other Commission-approved policies and procedures, necessary to reflect the terms of the revised Settlement Agreement. The proposed revisions to the Policy are discussed in the section below. There are no other Commission-approved policies or procedures that require revisions to reflect the revised Settlement Agreement.

## **II. Proposed Revisions to the Policy**

### **a. Policy Revisions to Reflect the Terms of the Revised Settlement Agreement**

Consistent with the Commission's directive, the attached revised Policy now includes reference to Order Modifying Settlement Agreement in Section 3 of the Policy, which includes provisions related to NERC's filing requirements under Section 7(b)(ii) of the Settlement Agreement. As in the Commission-approved Policy, revised Section 3 does not outline the above-

described filing requirements; rather, Section 3 of the Policy includes a cite to the relevant FERC orders. Section 3 of the revised Policy now provides:

Any budget reallocations or use of Reserves, including use of the Assessment Stabilization Reserve, other than as approved by the NERC Board and FERC as part of the company's annual business plan and budget, shall be submitted to FERC for approval or via an informational filing in accordance with the terms and conditions of Section 7(b)(ii) of the Settlement Agreement dated January 15, 2013 between FERC and the company, approved by FERC in its order *North American Electric Reliability Corp.*, 142 FERC ¶ 61,042 (2013), *as modified in North American Electric Reliability Corp.*, 185 FERC ¶ 61,055 (2023). (emphasis added)

To further align the Policy with the revised Settlement Agreement, NERC proposes to revise the internal approval thresholds for budget re-directions or unbudgeted reserve use as follows:

- For use of Operating Reserves or budget reallocations up to 1% of the NERC BP&B, NERC's president and chief executive officer is authorized to approve such use and reallocation, provided that such use and reallocations do not result in NERC exceeding its overall budget for that calendar year.
- For use of Operating Reserves or budget reallocations between 1%-3% of the NERC BP&B, the NERC Board's Finance and Audit Committee ("FAC") must provide prior approval for any such use or reallocation.
- For use of Operating Reserves or budget reallocations greater than 3% of the NERC BP&B, the NERC Board must provide prior approval for any such use or reallocation (following a FAC review and recommendation).

The new thresholds were designed to provide for Board approval for any use of reserves budget redirections that would trigger a FERC filing, whether an informational filing or for approval. The revised Policy also clarifies that NERC must report any use of reserves or budget redirections in the company's quarterly budget variance reports, which are submitted to and reviewed by the FAC.

b. Update to the Target Range for Operating Contingency Reserves

As noted above, in addition to the above-described revisions designed to reflect the revised Settlement Agreement, NERC proposes to update the target range for Operating Contingency Reserves (“OCR”) from 3.5%-7% to 8%-16%, which would equate to a 2024 target OCR range of \$7.9 to \$15.8 million. NERC’s current OCR target range of 3.5%-7% represents reserves of approximately two to four weeks (less than one month’s budget) and is a relatively small amount and narrow range. The proposed 8% to 16% range would equal approximately one to two months budget. Raising the OCR from the current to proposed target range would help mitigate certain potential unexpected circumstances, including catastrophic system loss coverage, timing of assessment collections, and special project requests and would also provide more operating flexibility.<sup>3</sup>

c. CRISP Reserves

The Policy was also updated to reflect CRISP reserve categories and approval processes for CRISP participant funded reserve usage, which are aligned with approval processes set forth in the CRISP agreement. These revisions add CRISP reserve accounts that will provide greater flexibility and agility for use of these reserves, as requested by the CRISP participants.

The revised Policy clarifies that NERC will hold the following three reserves associated with CRISP, all of which are exclusively funded by the CRISP participants and may be used solely for CRISP purposes:

- 1) the *CRISP Defense Cost Fund*, which is used exclusively to fund the reasonable costs and expenses of investigation and defense (such as attorneys’ fees, expert fees and expenses,

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<sup>3</sup> NERC understands that a “best practice” reserve range for nonprofit entities is three to six months of operating expenses (i.e., budget). However, NERC’s primary revenue stream of assessments is more stable than many other nonprofit entities and NERC can assess other load serving entities in the case of uncollectible assessments or unforeseen emergencies. It is reasonable to assume that NERC would not need to carry reserves as high as other nonprofit entities relying on cyclical or uncertain revenue streams.

and court costs) and the amount of any settlement or judgment incurred by NERC in connection with certain claims made against NERC pertaining to CRISP;

- 2) the *CRISP Operating Reserve*, which is available to ensure that costs for administering and operating CRISP, including unforeseen contingencies, are sufficiently covered; and
- 3) the *CRISP Equipment Reserve*, which was established by the participants to fund any future potential loss of or damage to the equipment used in the CRISP program.

The CRISP Operating Reserve and the CRISP Equipment Reserve were created in 2022 and 2023, respectively, after the last update to the Policy in 2015.<sup>4</sup> No additional changes are being proposed to these reserve accounts in the Policy.

The Master Agreement between NERC and utilities participating in CRISP (the “CRISP Agreement”) governs the use of these CRISP reserve accounts. Under the CRISP Agreement, NERC may use funds from the CRISP Operating Reserve as follows:

- NERC is authorized to use the CRISP Operating Reserves for up to 2.5% of the annual CRISP budget.
- For usage greater than 2.5% but less than 6.5% of the annual CRISP budget, the CRISP Governance Advisory Committee must provide prior approval.
- For CRISP Operating Reserve usage of 6.5% of the annual CRISP budget or greater, two-thirds of the CRISP participants must provide prior approval.

d. Assessment Stabilization Reserve

NERC also proposes revisions to the Policy to clarify the NERC Board’s use of the Assessment Stabilization Reserve (“ASR”). The goal of the Assessment Stabilization Reserve is to mitigate assessment volatility and have changes in annual assessments track, within a reasonable band, changes in the company’s total annual budget, with the total budget reflecting prudent fiscal discipline and good stewardship of resources. NERC proposes to revise the Policy to clarify that,

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<sup>4</sup> The Commission approved creation of the CRISP Operating Reserve on July 8, 2022. *N. Am. Elec. Reliability Corp.*, 180 FERC ¶ 61,013 (2022). The CRISP Equipment Reserve was established in 2023 through a transfer of funds from the CRISP Operating Reserve into the new reserves account, as noted in NERC’s variance report for the first quarter of 2023.

consistent with the stated goals in the Policy, the NERC Board may approve uses of this reserve in extreme and highly unusual circumstances, such as an unexpected and significant litigation expense in a particular year or a significant Bulk-Power System event or events in a particular year which requires extraordinary investigation expenses. The proposed Policy provides that prior to using the ASR in such circumstances, the Board should weigh factors such as whether other available reserves have been exhausted or already drawn down to unacceptably low level and whether other sources of funds (e.g., line of credit) are available. The filing requirements described above would apply to any uses of the ASR such that the Commission would have oversight into any such uses.

e. Other Revisions

In addition, NERC proposes non-substantive revisions designed to improve readability and organization of the policy and ensure terms are used consistently throughout the Policy.

### III. Conclusion

For the reasons set forth above, NERC respectfully requests that the Commission approve the proposed revisions to the Policy, as provided in Attachment 1 hereto.

Respectfully submitted,

/s/ Shamai Elstein

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**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 Washington, D.C. this 21st day of December 2023.

*/s/ Shamai Elstein*

Shamai Elstein  
*Counsel for North American Electric  
Reliability Corporation*

## Attachment 1

### NERC Working Capital and Reserves Policy (clean)

# Working Capital and Reserves Policy

This policy governs the authorization of management access to funds from working capital and various reserves requirements maintained by the North American Electric Reliability Corporation (“NERC” or “company”) and authorization required for budget reallocations within a fiscal year. Determination of the company’s annual working capital and reserve requirements shall be set forth separately in the company’s annual business plan and budget.

## 1. Description of NERC’s Working Capital and Reserves

**Working Capital** represents the amount of funds necessary to satisfy the company’s projected cash flow needs during the budget year, taking into account the projected timing of the receipt of funding and timing of operating, capital and financing needs. In addition to the foregoing, the company shall also maintain a line of credit, with a financial institution, in such amount and upon such terms and conditions, approved by the company’s Finance and Audit Committee and the NERC Board of Trustees (“Board”).

**Reserves** represent the amount of funds necessary to support operations, including contingencies. Reserves shall be divided into four categories: (1) reserves that are being held in order to satisfy future obligations under any lease, credit, loan agreement or other obligation to which the company is a party (the “Future Obligation Reserve”); (2) reserves to support programs under the purview of the Personnel Certification and Governance Committee (the “System Operator Certification Reserve”); (3) reserves to support the Cybersecurity Risk Information Sharing Program, known as CRISP (the “CRISP Reserves”); (4) reserves to fund reasonable and appropriate expenditures that were not assumed likely or anticipated in the company’s budget or for which the timing was uncertain (the “Operating Contingency Reserve”). In addition to the foregoing reserves, funds may periodically be set aside in a separate reserve and released in future periods in order to mitigate wide year-to-year variations in assessments (the “Assessment Stabilization Reserve”).

The amount of the company’s Working Capital, Future Obligation Reserve, System Operator Certification Reserve, CRISP Reserves, Operating Contingency Reserve and Assessment Stabilization Reserve shall be identified separately and quantified each year in the business plan and budget submitted to and reviewed by the Finance and Audit Committee and approved by the Board.

Below is a further description of the company’s reserves and their intended purpose:

### a. Future Obligation Reserve

The Future Obligation Reserve includes funding that has been received to satisfy future obligations under lease, credit, loan or other agreement to which the company is a party. An example is office lease funding that is in excess of actual (cash) office rent expense due to a landlord’s partial abatement of rent and a budgeted lease expense based on the straight-line amortization of rent expense over the term of the lease (under accounting guidelines). In such a case, this surplus funding is being held to offset future rent expense. Another possible example includes reserves or sinking funds requirements to meet covenant or other obligations under loan or other credit agreements.

b. System Operator Certification Reserve

The System Operator Certification Reserve supports the system operator certification program and includes surplus funding from operator certification and testing fees that are above incurred expenses. This reserve shall be used solely to support programs under the purview of the Personnel Certification Governance Committee.

c. CRISP Reserves

NERC will hold the following three reserves associated with the Cybersecurity Risk Information Sharing Program ("CRISP"): (1) the CRISP Defense Cost Fund, (2) the CRISP Operating Reserve, and (3) the CRISP Equipment Reserve, all of which are exclusively funded by the CRISP participants. The Master Agreement between NERC and utilities participating in CRISP (the "CRISP Agreement") governs the use of these CRISP Reserve accounts. The CRISP Reserves may be used solely for CRISP purposes. The CRISP Defense Cost Fund is used exclusively to fund the reasonable costs and expenses of investigation and defense (such as attorneys' fees, expert fees and expenses, and court costs) and the amount of any settlement or judgment incurred by NERC in connection with certain claims made against NERC pertaining to CRISP. The CRISP Operating Reserve is available to ensure that costs for administering and operating CRISP, including unforeseen contingencies, are sufficiently covered. The CRISP Equipment Reserve was established by the participants to fund any future potential loss of or damage to the equipment used in the CRISP program.

d. Operating Contingency Reserve

The Operating Contingency Reserve is for contingencies that were not anticipated, assumed to be likely or for which the timing was uncertain, at the time of preparation and approval of the company's business plan and budget. The determination of the amount of the Operating Contingency Reserve shall take into consideration the projected costs and risks of ongoing operations, projected resource requirements associated with significant ongoing or emerging reliability initiatives, capital-spending forecasts, and other factors that the Board, Finance and Audit Committee, and management consider appropriate. Examples of unforeseen contingencies might include supplemental resources required to assist in the evaluation of significant unforeseen events affecting the Bulk-Power System or to address regulatory directives not final at the time of budgeting. Except as otherwise approved by the Board, after review by the Finance and Audit Committee, the amount of the Operating Contingency Reserve shall be between eight (8%) percent and sixteen (16%) percent of the company's total budget minus the sum of the System Operator Certification and CRISP budgets, each of which have separate reserves.

e. Assessment Stabilization Reserve

The goal of the Assessment Stabilization Reserve is to mitigate assessment volatility and have changes in annual assessments track, within a reasonable band, changes in the company's total annual budget, with the total budget reflecting prudent fiscal discipline and good stewardship of resources. Assessment stabilization funds will be used when available to help stabilize assessments and mitigate year-to-year variation in assessments, which can result from a variety of factors, including but not limited to the application of penalty funds, surplus funds available from a prior period, a need to replenish the Operating Contingency Reserve, or significant but relatively short-term operating or capital spending needs. Any use of the Assessment Stabilization Reserve should, to the extent possible, be included in the annual business plan and

budget and shall be determined based on a review of future forecasts of assessments, as well as the availability of surplus funds and penalty funds to fund this reserve. Except as otherwise approved by the Board, funds in the Assessment Stabilization Reserve may not be used for any purpose inconsistent with the goal of the reserve set forth in this paragraph. The Board may approve other uses of this reserve in extreme and highly unusual circumstances, such as an unexpected and significant litigation expense in a particular year or a significant Bulk Power System event or events in a particular year which requires extraordinary investigation expenses. The Board should weigh factors such as whether other available reserves have been exhausted or already drawn down to unacceptably low level and whether other sources of funds (e.g., line of credit) are available.

## **2. Guidelines and Authorities Applicable to Expenditures of Working Capital, Reserves, and Budget Reallocations**

The following guidelines, limitations, and authorities shall apply to expenditures of working capital and reserves, and budget reallocations.

### **a. Working Capital**

The chief financial officer shall have the authority to draw on budgeted working capital to the extent necessary to satisfy daily cash flow requirements. To the extent necessary to meet projected cash flow and cash balance requirements, any such use of working capital shall, to the extent possible, be promptly replenished from future surplus cash flow.

### **b. System Operator Certification Reserve**

The company's chief financial officer is authorized to approve expenditures of System Operator Certification Reserves upon receiving approval of reserve usage from the Personnel Certification Governance Committee.

### **c. Operating Contingency Reserve**

NERC may use funds from its Operating Contingency Reserve as follows:

- i. The president and chief executive officer is authorized to use the Operating Contingency Reserve up to 1% of NERC's Federal Energy Regulatory Commission ("FERC")-approved budget.
- ii. For Operating Contingency Reserve usage greater than 1% but less than 3% of NERC's FERC-approved budget, the Board's Finance and Audit Committee ("FAC") must provide prior approval of such use.
- iii. For Operating Contingency Reserve usage of 3% of NERC's FERC-approved budget or greater, the Board must provide prior approval of such use, after notice to and recommendation by the FAC.

Management must report any use of the Operating Contingency Reserve in the company's quarterly budget variance reports, which are submitted to and reviewed by the FAC.

d. CRISP Reserves

Expenditures of the CRISP Defense Cost Fund must be undertaken in accordance with the CRISP Agreement.

The company's chief financial officer is authorized to use funds from the CRISP Equipment Reserve upon receiving approval of reserve usage from the CRISP Governance Advisory Committee.

NERC may use funds from the CRISP Operating Reserve in accordance with the CRISP Agreement, which provides as follows:

- i. NERC is authorized to use the CRISP Operating Reserves for up to 2.5% of the annual CRISP budget.
- ii. For CRISP Operating Reserve usage greater than 2.5% but less than 6.5% of the annual CRISP budget, the CRISP Governance Advisory Committee must provide prior approval.
- iii. For CRISP Operating Reserve usage of 6.5% of the annual CRISP budget or greater, two-thirds of the CRISP participants must provide prior approval.

Management must report any use of the CRISP Operating Reserve in the company's quarterly budget variance reports, which are submitted to and reviewed by the FAC.

e. Future Obligations Reserves

The company shall ensure that Future Obligations Reserves are available for use in satisfying such future obligations; provided however, such funds shall also be available to satisfy any coverage and liquidity requirements under the terms of any loan or credit agreement to which the company is a party.

f. Budget Reallocations

During a calendar year, NERC may reallocate funds budgeted for one program area to another program area to address changing priorities and resource needs, as follows:

- i. For budget reallocations up to 1% of NERC's FERC-approved budget, the company's president and chief executive officer is authorized to approve such budget reallocation, provided that such reallocations do not result in NERC exceeding its overall budget for that calendar year.
- ii. For budget reallocations between 1% and 3% of NERC's FERC-approved budget, the FAC must approve the reallocation prior to any such reallocation.
- iii. For budget reallocations of 3% or greater of NERC's FERC-approved budget, the Board must approve the reallocation, after notice to and recommendation by the FAC, prior to any such reallocation.

Management must report any budget reallocations in the company's quarterly budget variance reports, which are submitted to and reviewed by the FAC, accepted by the Board, and filed with FERC.

g. Special Assessments

The procedures set forth in Section 1108 of the Rules of Procedure, including Board and FERC approval, shall continue to apply in circumstances where the company requires funding between normal annual budget cycles in excess of amounts available through approved assessments, working capital and operating reserve resources.

**3. Federal Energy Regulatory Commission Approvals and Information Filings for Use of Reserves and Budget Reallocations**

Any budget reallocations or use of Reserves, including use of the Assessment Stabilization Reserve, other than as approved by the NERC Board and FERC as part of the company's annual business plan and budget, shall be submitted to FERC for approval or via an informational filing in accordance with the terms and conditions of Section 7(b)(ii) of the Settlement Agreement dated January 15, 2013 between FERC and the company, approved by FERC in its order *North American Electric Reliability Corp.*, 142 FERC ¶ 61,042 (2013), as modified in *North American Electric Reliability Corp.*, 185 FERC ¶ 61,055 (2023).

## Attachment 2

### NERC Working Capital and Reserves Policy (redline)



# Working Capital and ~~Operating~~ Reserves Policy

This policy governs the authorization of management access to funds from ~~determination of the company's annual~~ working capital and ~~operating~~ various reserves requirements maintained by the North American Electric Reliability Corporation ("NERC" or "company") and authorization required for budget reallocations within a fiscal year.; Determination of the ~~as well as the authorization of management to access these funds.~~ The company's annual working capital and ~~operating~~ reserve requirements shall be set forth separately in the company's annual business plan and budget.

## 1. Description of NERC's Working Capital and Reserves

**Working Capital** represents the amount of funds necessary to satisfy the company's projected cash flow needs during the budget year, taking into account the projected timing of the receipt of funding and timing of operating capital and financing needs ~~operating expenses~~. In addition to the foregoing, the company shall also maintain a line of credit, with a financial institution, in such amount and upon such terms and conditions, approved by the company's Finance and Audit Committee and the NERC Board of Trustees ("Board").

~~Operating~~ **Reserves** represent ~~reserves~~ the amount of funds necessary to support operations, including contingencies. ~~Operating~~ Reserves shall be divided into four categories: (1) reserves that are being held in order to satisfy future obligations under any lease, credit, loan agreement or other obligation to which the company is a party (the "Future Obligation Reserve"); (2) reserves to support programs under the ~~System Operator Certification Program Area Reserve~~ purview of the Personnel Certification and Governance Committee (the "System Operator Certification Reserve"); (3) reserves to support the Cybersecurity Risk Information Sharing Program, known as CRISP (the "CRISP Reserves"); (4) reserves to fund reasonable and appropriate expenditures that were not assumed likely or anticipated in the company's budget or for which the timing was uncertain (the "Operating Contingency Reserve"). In addition to the foregoing reserves, funds may periodically be set aside in a separate reserve and released in future periods in order to mitigate wide year-to-year variations in assessments (the "Assessment Stabilization Reserve").

The amount of the company's Working Capital, Future Obligation Reserve, System Operator Certification Reserve, CRISP Reserves, Operating Contingency Reserve and Assessment Stabilization Reserve shall be identified separately and quantified each year in the business plan and budget submitted to and reviewed by the Finance and Audit Committee, and approved by the Board.

~~The following additional guidelines shall apply to the determination~~ Below is a further description of the company's ~~Operating R~~eserves and ~~Assessment Stabilization Reserve~~ their intended purpose:

### a. Future Obligation Reserve

The Future Obligation Reserve includes funding that has been received to satisfy future obligations under lease, credit, loan or other agreement to which the company is a party. An example is office lease funding that is in excess of actual (cash) office rent expense due to a landlord's partial abatement of rent and a budgeted lease expense based on the ~~straight line~~ straight-line amortization of rent expense over the term of the lease (under accounting guidelines). In such a case, this surplus funding is being held to offset future rent expense. Another possible example includes reserves or sinking funds requirements to meet

covenant or other obligations under loan or other credit agreements.

b. System Operator Certification Reserve

The System Operator Certification Reserve supports the system operator certification program, and includes surplus funding from operator certification and testing fees that are above incurred expenses. ~~Consistent with the intent of Section 604.4.10 of the Rules of Procedures, this~~ this reserve shall be used solely to support ~~operator testing and certification needs, as determined by the company and~~ programs under the purview of the Personnel Certification Governance Committee.

c. CRISP Reserves

NERC will hold the following three reserves associated with the Cybersecurity Risk Information Sharing Program ("CRISP"): (1) the CRISP Defense Cost Fund, (2) the CRISP Operating Reserve, and (3) the CRISP Equipment Reserve, all of which are exclusively funded by the CRISP participants. The Master Agreement between NERC and utilities participating in CRISP (the "CRISP Agreement") governs the use of these CRISP Reserve accounts. The CRISP Reserves may be used solely for CRISP purposes. The CRISP Defense Cost Fund is used exclusively to fund the reasonable costs and expenses of investigation and defense (such as attorneys' fees, expert fees and expenses, and court costs) and the amount of any settlement or judgment incurred by NERC in connection with certain claims made against NERC pertaining to CRISP. The CRISP Operating Reserve is available to ensure that costs for administering and operating CRISP, including unforeseen contingencies, are sufficiently covered. The CRISP Equipment Reserve was established by the participants to fund any future potential loss of or damage to the equipment used in the CRISP program. ~~The CRISP Reserve is maintained to support CRISP. The CRISP Reserve shall be held in a separate bank account and used solely for CRISP funding.~~

d. Operating Contingency Reserve

The Operating Contingency Reserve ~~are reserves~~ is for contingencies that were not anticipated, assumed to be likely or for which the timing ~~of which~~ was uncertain, at the time of preparation and approval of the company's business plan and budget. The determination of the amount of the Operating Contingency Reserve shall take into consideration the projected costs and risks of ongoing operations, projected resource requirements associated with significant ongoing or emerging reliability initiatives, capital-spending forecasts and other factors that the Board, Finance and Audit Committee, and management consider appropriate. Examples of unforeseen contingencies might include supplemental resources required to assist in the evaluation of significant unforeseen events affecting the Bulk-Power System or to address regulatory directives not final at the time of budgeting. Except as otherwise approved by the Board, after review by the Finance and Audit Committee, the amount of the Operating Contingency Reserve shall be between ~~three and one-half~~ eight (3.58%) percent and ~~seven-sixteen~~ (7.16%) percent of the company's total ~~expense and fixed asset~~ budget minus the sum of the System Operator Certification and CRISP budgets, each of which have separate reserves.

e. Assessment Stabilization Reserve

The goal of the Assessment Stabilization Reserve is to mitigate assessment volatility and have changes in annual assessments track, within a reasonable band, changes in the company's total annual budget, with the total budget reflecting prudent fiscal discipline and good stewardship of resources. Assessment stabilization funds will be used when available to help stabilize assessments and mitigate year-to-year ~~swings~~ variation in

assessments, which can result from a variety of factors, including but not limited to the application of penalty funds, surplus funds available from a prior period, a need to replenish the Operating Contingency Reserve, or significant but relatively short term operating or capital spending needs. ~~The amount~~ Any use of the Assessment Stabilization Reserve ~~which is budgeted~~ should, to the extent possible, be included in ~~any given year~~ the annual business plan and budget and shall be determined based on a review of ~~a three-year rolling~~ future forecasts of assessments, as well as the availability of surplus funds and penalty funds to fund this reserve. Except as otherwise approved by the Board, funds in the Assessment Stabilization Reserve may not be used for any purpose inconsistent with the goal of the reserve set forth in this paragraph.

The Board may approve other uses of this reserve in extreme and highly unusual circumstances, such as an unexpected and significant litigation expense in a particular year or a significant Bulk Power System event or events in a particular year which requires extraordinary investigation expenses. The Board should weigh factors such as whether other available reserves have been exhausted or already drawn down to unacceptably low level and whether other sources of funds (e.g., line of credit) are available.

## 1.2. Guidelines and Authorities Applicable to Expenditures of Working Capital, ~~and Reserves,~~ and Budget Reallocations

The following guidelines, limitations, and authorities shall apply to expenditures of working capital and ~~operating~~ reserves, and budget reallocations.

### a. Working Capital

The chief financial ~~and administrative~~ officer shall have the authority to draw on budgeted working capital ~~reserves~~ to the extent necessary to satisfy daily cash flow requirements. To the extent necessary to meet projected cash flow and cash balance requirements, any such ~~draws use~~ of working capital ~~reserves~~ shall, to the extent possible, be promptly replenished from future surplus cash flow.

### b. System Operator Certification Reserve

The company's chief financial officer is authorized to approve expenditures of System Operator Certification Reserves upon receiving approval of reserve usage from the Personnel Certification Governance Committee.

~~1. The company's president and chief executive officer is authorized to approve expenditures of System Operator Certification Reserves up to the amount set forth in the company's budget~~

### ~~b.c. For Operating Contingency Reserve and CRISP Reserve expenditures:~~

NERC may use funds from its Operating Contingency Reserve as follows:

- i. The president and chief executive officer is authorized to ~~make expenditures~~ use the Operating Contingency Reserve –up to 1% of NERC's Federal Energy Regulatory Commission ("FERC")-approved budget. to \$500,000 and management shall report such expenditures to the Finance and Audit Committee no less frequently than in the quarterly company budget variance report following the expenditure of such reserves;

- ii. For Operating Contingency Reserve usage expenditures greater than a 1% \$500,000 but less than 3% \$1,000,000 of NERC's FERC-approved budget, prior approval of the Board's Finance and Audit Committee ("FAC") must provide prior approval of such use. ~~is required; and~~
- iii. For Operating Contingency Reserve usage of 3% of NERC's FERC-approved budget or greater, expenditures in excess of \$1,000,000, approval of the Board must provide prior approval of such use ~~is required~~, after notice to and recommendation by the ~~Finance and Audit Committee~~ FAC.

Management must report any use of the Operating Contingency Reserve in the company's quarterly budget variance reports, which are submitted to and reviewed by the FAC.

#### d. CRISP Reserves

Expenditures of the CRISP Defense Cost Fund must be undertaken in accordance with the CRISP Agreement.

The company's chief financial officer is authorized to use funds from the CRISP Equipment Reserve upon receiving approval of reserve usage from the CRISP Governance Advisory Committee.

NERC may use funds from the CRISP Operating Reserve in accordance with the CRISP Agreement, which provides as follows:

- i. NERC is authorized to use the CRISP Operating Reserves for up to 2.5% of the annual CRISP budget.
- ii. For CRISP Operating Reserve usage greater than 2.5% but less than 6.5% of the annual CRISP budget, the CRISP Governance Advisory Committee must provide prior approval.
- iii. For CRISP Operating Reserve usage of 6.5% of the annual CRISP budget or greater, two-thirds of the CRISP participants must provide prior approval.

Management must report any use of the CRISP Operating Reserve in the company's quarterly budget variance reports, which are submitted to and reviewed by the FAC.

#### e. Future Obligations Reserves

The company shall ~~segregate Future Obligation Reserves to~~ ensure that Future Obligations Reserves ~~they~~ are available for use in satisfying such future obligations; provided however, such funds shall also be available to satisfy any coverage and liquidity requirements under the terms of any loan or credit agreement to which the company is a party.

~~All expenditures of reserve funds are subject to other applicable company policies and procedures, including currently effective procurement policies and delegations of authority approved by the president and chief executive officer, and shall be separately reported in the budget variance reports prepared by management, and included in the quarterly Finance and Audit Committee agenda materials that are posted on the company's website.~~

~~The procedures set forth in Section 1108 of the Rules of Procedure, including Board and FERC approval, shall continue to apply in circumstances where the company requires funding between normal annual budget cycles in excess of amounts available through approved assessments, working capital and operating reserve resources.~~

#### f. Budget Reallocations

During a calendar year, NERC may reallocate funds budgeted for one program area to another program area to address changing priorities and resource needs, as follows:

- i. For budget reallocations up to 1% of NERC's FERC-approved budget, the company's president and chief executive officer is authorized to approve such budget reallocation, provided that such reallocations do not result in NERC exceeding its overall budget for that calendar year.
- ii. For budget reallocations between 1% and 3% of NERC's FERC-approved budget, the FAC must approve the reallocation prior to any such reallocation.
- iii. For budget reallocations of 3% or greater of NERC's FERC-approved budget, the Board must approve the reallocation, after notice to and recommendation by the FAC, prior to any such reallocation.

Management must report any budget reallocations in the company's quarterly budget variance reports, which are submitted to and reviewed by the FAC, accepted by the Board, and filed with FERC.

#### g. Special Assessments

~~The procedures set forth in Section 1108 of the Rules of Procedure, including Board and FERC approval, shall continue to apply in circumstances where the company requires funding between normal annual budget cycles in excess of amounts available through approved assessments, working capital and operating reserve resources.~~

Federal Energy Regulatory Commission Approvals and Information Filings for Use of Reserves and Budget Reallocations~~Guidelines and Authorities Required to Reallocate Budgeted Expenditures on an Intra-year Basis~~

### 3.

~~During the course of the year, events may unfold such that some approved budget areas may run below budget, making funds available to satisfy other resource needs based on changing priorities. In the event such under runs occur, the president and chief executive officer shall have the authority to reallocate and expend such funds, provided that such reallocation and expenditure does not result in the company's overall approved budget being exceeded and such expenditures shall be reported by management in the company's quarterly budget variance reports, which are submitted to and reviewed by the Finance and Audit Committee.~~

### Federal Energy Regulatory Commission (FERC) Filing Requirements

Any ~~reallocation of budgeted funds~~ budget reallocations and/or use of ~~expenditure of Operating~~ Reserves, including use of ~~from~~ the Assessment Stabilization Reserve, other than as approved by the NERC Board ~~of Trustees~~ and FERC as part of the company's annual business plan and budget, shall be submitted to FERC for approval or via an informational filing in accordance with the terms and conditions of Section 7(b)(ii) of the Settlement Agreement dated January 15, 2013 between FERC and the company, approved by FERC in its order *North American Electric Reliability Corp.*, 142 FERC ¶ 61,042 (2013), as modified in *North American Electric Reliability Corp.*, 185 FERC ¶ 61,055 (2023).