

169 FERC ¶ 61,040
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick and Bernard L. McNamee.

North American Electric Reliability Corporation

Docket No. RR19-8-000

ORDER ACCEPTING 2020 BUSINESS PLANS AND BUDGETS

(Issued October 17, 2019)

1. On August 23, 2019, the North American Electric Reliability Corporation (NERC) filed 2020 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 2020 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 2020 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 six Regional Entities are: Midwest Reliability Organization (MRO); Northeast Power Coordinating Council, Inc.; ReliabilityFirst Corporation; SERC Reliability Corporation (SERC); Texas Reliability Entity; and Western Electricity Coordinating Council (WECC).

² 16 U.S.C. § 824o (2018).

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

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, 2020, as well as the proposed business plans and budgets of each of the six Regional Entities and WIRAB for the year ending December 31, 2020.

5. NERC states that it prepared its 2020 business plan and budget, and worked with the Regional Entities in developing their business plans and budgets, through a rigorous process that provided ample opportunity for review and input by the NERC Board of Trustees Finance and Audit Committee and stakeholders. According to NERC, successive versions of the 2020 business plans and budgets were discussed by the Finance and Audit Committee as well as the full NERC Board of Trustees, in meetings

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, 114 FERC ¶ 61,104 *order on reh’g*, Order No. 672-A, 114 FERC ¶ 61,328 (2006).

⁶ Order No. 672, 114 FERC ¶ 61,104 at P 197.

⁷ 18 C.F.R. § 39.4(b) (2019).

and conference calls, with each event providing opportunities for stakeholders to comment.⁸

6. NERC states that the proposed assessment, i.e., the total funding requirement less funding from other sources, for the total ERO (i.e., NERC, the Regional Entities, and WIRAB) for 2020 allocable to the United States is \$170,657,889, which includes \$65,130,829 for NERC funding; \$104,700,963 for Regional Entity funding; and \$826,096 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 \$0.0000420 per kWh, based on the aggregate net energy for load of the United States in 2018.¹⁰

7. In addition to the NERC, Regional Entity, and WIRAB business plans and budgets, the NERC Application contains various attachments including: NERC Management's Responses to Stakeholder Comments Submitted on Draft #1 and #2 of NERC's 2020 Business Plan and Budget (Attachment 10); Calculation of Adjustments for the Alberta Electric System Operator 2020 NERC Assessment, the Independent Electric System Operator 2020 NERC Assessment, the New Brunswick 2020 NERC Assessment, and the Québec 2020 NERC Assessment (Attachment 11); Metrics Comparing Regional Entity Operations Based on the 2020 Budgets (Attachment 12); and Metrics on NERC and Regional Entity Administrative (Indirect) Costs Based on the 2019 and 2020 Budgets (Attachment 13).

II. Notice and Responsive Pleadings

8. Notice of NERC's August 23, 2019 filing was published in the *Federal Register*, 84 Fed. Reg. 45,746 (2019), with interventions and protests due on or before September 16, 2019. No interventions or protests were filed.

III. Discussion

A. NERC Business Plan and Budget

9. NERC states that its 2020 business plan and budget is based on the following program areas: (1) Reliability Standards and Power Risk Issues Strategic Managements; (2) Compliance Assurance, Organization Registration and Certification, and Compliance

⁸ NERC Application at 3-4.

⁹ *Id.*, Attachment 1 (Summary Tables for NERC and Regional Entity Proposed 2020 Budgets and Assessments) at 2.

¹⁰ NERC Application at 20.

Enforcement; (3) Reliability Assessment and Performance Analysis; (4) Situation Awareness; (5) Event Analysis; (6) Electricity Information Sharing and Analysis Center (E-ISAC), including the Cyber Risk Information Sharing Program (CRISP); (7) Personnel Certification and Continuing Education; and (8) Training, Education.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 2020. NERC also provides 2019 accepted budget data and 2019 year-end projected data for comparison to the 2020 proposed budget data.

10. NERC's proposed total funding requirement for 2020 is \$82,006,951, which is an increase of \$3,071,602 (3.9 percent) over NERC's 2019 total funding requirement of \$78,935,349.¹² NERC states that its 2020 budget, excluding E-ISAC costs, of \$52,132,685 is 0.8 percent lower than its 2019 budget excluding E-ISAC costs.¹³ NERC's proposed 2020 net funding requirement is \$72,011,373 (i.e., the total funding requirement less \$9,995,557¹⁴ in funding from other sources), of which \$65,130,829 is allocated to the United States.¹⁵

11. NERC notes that the 2020 budget for the E-ISAC, including funding for CRISP, is 14.5 percent higher than its 2019 budget.¹⁶ NERC explains that the E-ISAC budget reflects increased watch operations, analytical, and engagements capabilities in support of the E-ISAC long-term strategy, as well as the addition of 6.58 FTEs.

12. NERC states that the proposed 2020 business plan and budget reflects a provision for working capital and operating reserve funding in the amount of \$650,083.¹⁷ Finally,

¹¹ *Id.* at 7.

¹² *Id.* at 12; NERC Application, Attachment 2 at 9.

¹³ NERC Application at 12.

¹⁴ *Id.* at 13. NERC's other funding sources are third-party funding for CRISP, fees charged to participants in the NERC System Operator Certification Program, revenue from services and software, and interest. *Id.* at 13.

¹⁵ *Id.*, Attachment 1 at 2.

¹⁶ *Id.* at 25. NERC notes that CRISP comprises 28.0 percent of the total E-ISAC budget.

¹⁷ *Id.* at 30.

NERC proposes a 2020 staffing level of 213.38 FTEs, an increase of 8.46 FTEs from 2019 budget staffing levels.¹⁸

Commission Determination

13. We accept NERC's 2020 business plan and budget. We find that NERC's 2020 budget is reasonable and that the associated costs of NERC's jurisdictional functions are equitably allocated among end users in the United States.

B. Regional Entity Business Plans and Budgets

14. The NERC Application includes the 2020 business plans and budgets of each Regional Entity. The proposed total assessment for the Regional Entities that is allocable to the United States is \$104,700,963, which represents a \$1,852,623 (1.80 percent) increase from 2019.¹⁹ 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.²⁰

15. Additionally, MRO proposes to establish an assessment stabilization reserve: (1) into which penalty collections received in the 12 months ending the previous June 30 would be deposited, and (2) from which funds may be released to reduce year-to-year fluctuations in the amount of assessments needed to fund operations. MRO proposes to deposit penalties collected between July 1, 2018 and June 30, 2019, totaling \$712,417, into the MRO assessment stabilization reserve, and to release \$557,718 from the MRO assessment stabilization reserve to reduce the 2020 assessment (leaving a balance of \$154,699 in the MRO assessment stabilization reserve to be used in future periods). Accordingly, pursuant to Section 1107.4 of the NERC Rules of Procedure, NERC and MRO request an exception to Section 1107.2 of the NERC Rules of Procedure that requires penalty monies collected during the 12 months prior to July 1 of a given year be used to reduce MRO's assessments in the following year.²¹

16. SERC proposes to: (1) use \$829,718 of penalties collected between July 1, 2018 and June 30, 2019, to fund expenses incurred in 2019 associated with the transfer and integration of registered entities from Florida Reliability Coordinating Council; and (2) to use an additional \$1,900,000 of penalty collections anticipated to be received after June 30, 2019 to reduce the 2020 assessment. Accordingly, pursuant to Section 1107.4 of the NERC Rules of Procedure, NERC and SERC request an exception to Section 1107.2

¹⁸ *Id.* at 13, Attachment 2 at 13.

¹⁹ NERC Application, Attachment 1 at 2.

²⁰ NERC Application at 34.

²¹ *Id.* at 35-36.

of the NERC Rules of Procedure that requires penalty monies collected during the 12 months prior to July 1 of a given year be used to reduce assessments in the following budget year.

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. 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 for MRO and SERC. We note that the decision here is limited to this 2020 budget filing. The Commission will address any future requests for an exception to Section 1107.2 of the NERC Rules of Procedure based on the facts at that time.

C. WIRAB Business Plan and Budget

18. WIRAB proposes expenses of \$1,255,200 in 2020, which is a \$92,500 (8.0 percent) increase from its 2019 budget. To fund its operations in 2020, WIRAB proposes a statutory assessment of \$986,300, of which \$826,096 would be allocable to end users in the United States.²²

19. The NERC Application indicates that WIRAB's proposed four strategic initiatives in 2020: (1) encourage WECC to improve its assessment of long-term resource adequacy to ensure that state and provincial regulators, FERC, and NERC have access to accurate, consistent, and timely information to inform capacity expansion decisions in the west; (2) encourage WECC to study and publish findings on the interrelationship between distributed energy resources and the reliability of the bulk-power system in the west; (3) encourage western Reliability Coordinators to adopt a set of consistent metrics to measure performance, to identify best practices, and to strive for exceptional reliability in the west; and (4) assist WECC in assessing the reliability benefits and risks associated with wholesale electricity market expansion in the west.²³ WIRAB's budget includes 5.0 FTEs for 2020, which is the same as its 2019 budget.²⁴

²² *Id.* at 44-45; NERC Application, Attachment 9 (Western Interconnection Regional Advisory Body Proposed 2019 Business Plan and Budget) at 3.

²³ NERC Application Attachment 9 at 8-14.

²⁴ NERC Application, Attachment 11 at 18.

Commission Determination

20. Based on the information provided in the instant filing, we conclude that WIRAB's 2020 business plan and budget is reasonable and, accordingly, we accept WIRAB's 2020 business plan and budget.

The Commission orders:

- (A) NERC's 2020 business plan and budget is hereby accepted.
- (B) The Regional Entities' 2020 business plans and budgets are hereby accepted.
- (C) NERC's request for waiver to Section 1107 of its Rules of Procedure for MRO and SERC is hereby granted.
- (D) WIRAB's 2020 business plan and budget is hereby accepted.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.