

173 FERC ¶ 61,120
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick and James P. Danly.

North American Electric Reliability Corporation Docket No. RR20-6-000

ORDER ACCEPTING 2021 BUSINESS PLANS AND BUDGETS

(Issued November 2, 2020)

1. On August 24, 2020, the North American Electric Reliability Corporation (NERC) filed 2021 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 2021 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 2021 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. (NPCC); ReliabilityFirst Corporation; SERC Reliability Corporation (SERC); Texas Reliability Entity; and Western Electricity Coordinating Council (WECC).

² 16 U.S.C. § 824o.

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, 2021, as well as the proposed business plans and budgets of each of the six Regional Entities and WIRAB for the year ending December 31, 2021.

5. NERC states that it prepared its 2021 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 2021 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, at P 186, *order on reh’g*, Order No. 672-A, 114 FERC ¶ 61,328 (2006).

⁶ *Id.* P 197.

⁷ 18 C.F.R. § 39.4(b) (2020).

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 2021 allocable to the United States is \$171,124,308, which includes \$64,957,145 for NERC funding; \$105,340,184 for Regional Entity funding; and \$826,979 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 \$0.0000425 per kWh, based on the aggregate net energy for load of the United States in 2019.¹⁰

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 Drafts of NERC's 2021 Business Plan and Budget (Attachment 10); Calculation of Adjustments for the Alberta Electric System Operator, Ontario Independent Electric System Operator, New Brunswick, and Québec 2021 NERC Assessments (Attachment 11); Memorandum for NERC Board of Trustees Describing NERC's Participation in Preparation of and Review of Regional Entity 2021 Business Plans and Budgets (Attachment 12); Metrics Comparing Regional Entity Operations Based on the 2021 Budgets (Attachment 13); and Metrics on NERC and Regional Entity Administrative (Indirect) Costs Based on the 2020 and 2021 Budgets (Attachment 14).

II. Notice and Responsive Pleadings

8. Notice of NERC's August 24, 2020 filing was published in the *Federal Register*, 85 Fed. Reg. 53,807 (2020), with interventions and protests due on or before September 14, 2020. No interventions or protests were filed.

III. Discussion

A. NERC Business Plan and Budget

9. NERC states that its 2021 business plan and budget is based on the following program areas: (1) Reliability Standards and Power Risk Issue Strategic Management;

⁸ NERC Application at 3-4.

⁹ *Id.*, Attachment 1 (Summary Tables for NERC and Regional Entity Proposed 2021 Budgets and Assessments) at 2.

¹⁰ *Id.* at 18.

(2) Compliance Assurance, Compliance Analysis, Organization Registration and Certification, and Compliance 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); and (7) Personnel Certification and Continuing Education; and (8) Training and 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 2021. NERC also provides 2020 accepted budget data and 2020 year-end projected data for comparison to the 2021 proposed budget data.

10. NERC's proposed total funding requirement for 2021 is \$82,883,239, which is an increase of \$226,205 (0.3%) over NERC's 2020 total funding requirement of \$82,657,034.¹² NERC states that its 2021 budget, excluding E-ISAC costs, of \$53,061,501 is 3.4% higher than its 2020 budget excluding E-ISAC costs.¹³ NERC's proposed 2021 net funding requirement is \$72,011,373 (i.e., the total funding requirement less \$9,144,177¹⁴ in funding from other sources), of which \$64,957,145 is allocated to the United States.¹⁵

11. NERC notes that the 2021 budget for the E-ISAC, including funding for CRISP, is 4.8% lower than its 2020 budget.¹⁶ NERC explains that the E-ISAC budget reflects the reevaluation of the E-ISAC strategic plan and optimization of current resources, and a reduction in indirect cost allocation. NERC explains that the decrease in CRISP is primarily due to a reduction in participant-paid costs for the Pacific Northwest National Laboratory (mainly due to additional Department of Energy funding), the annual security review, and pilot programs.¹⁷

¹¹ *Id.* at 7.

¹² *Id.* at 12, Attachment 2 at 11.

¹³ *Id.*, Attachment 2 at 11.

¹⁴ *Id.* at 12. NERC states its other funding sources are third-party funding for CRISP, revenue from services and software, testing and workshop fees, and interest and investment income.

¹⁵ *Id.*, Attachment 1 at 2.

¹⁶ *Id.* at 33. NERC notes that CRISP comprises 27.5% of the total E-ISAC budget.

¹⁷ *Id.*, Attachment 2 at 11.

12. NERC states that the proposed 2021 business plan and budget reflects a provision for working capital and operating reserve funding in the amount of \$10,825,609.¹⁸ Finally, NERC proposes a 2021 staffing level of 213.38 FTEs, the same as 2020 budget staffing levels.¹⁹

13. NERC states that it received \$1,000,000 in penalty monies for the period of July 1, 2019 through June 30, 2020.²⁰ In accordance with the Commission's June 18, 2015 order,²¹ 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 \$1,000,000 of penalty monies into its assessment stabilization reserve. NERC states that these actions will leave a balance of \$2,521,000 in the assessment stabilization reserve for use to offset and stabilize assessments in future years' budgets.²²

Commission Determination

14. We accept NERC's 2021 business plan and budget. We find that NERC's 2021 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 \$1,000,000 in penalty monies to its assessment stabilization reserve. 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.

B. Regional Entity Business Plans and Budgets

15. The NERC Application includes the 2021 business plans and budgets of each Regional Entity. The proposed total assessment for the Regional Entities that is allocable to the United States is \$105,340,184, which represents a \$639,220 (0.61%) increase from 2020.²³ NERC states that it reviewed the Regional Entity business plans and budgets and

¹⁸ *Id.* at 27.

¹⁹ *Id.* at 12, Attachment 2 at 12.

²⁰ *Id.* at 27.

²¹ *North American Electric Reliability Corp.*, 151 FERC ¶ 61,225, at P 19 (2015).

²² NERC Application at 27.

²³ NERC Application, Attachment 1 at 2.

concludes that each Regional Entity proposes necessary and adequate resources to carry out its delegated functions.²⁴

16. NERC also states that three Regional Entities – MRO, NPCC, and SERC – received penalty monies for the period of July 1 2019 through June 30, 2020,²⁵ and in accordance with the Commission’s June 18, 2015 Order,²⁶ and pursuant to section 1107.4 of the NERC Rules of Procedure, NERC and these three Regional Entities request an exception to section 1107.2 of the NERC Rules of Procedure to permit the Regional Entities to deposit the penalty monies into their assessment stabilization reserves, as outlined below.

Regional Entity	Penalty monies to be placed into the assessment stabilization Reserve	Amounts Requested to be used from the assessment stabilization reserve to offset 2021 assessments	Projected 2021 assessment stabilization reserve balance
MRO	\$360,504	(\$1,428,951)	\$1,629,989
NPCC	\$604,000	(\$201,132)	\$402,868
SERC	\$5,680,000	(\$1,180,000)	\$2,600,000

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, NPPC and SERC. We note that the decision here is limited to this 2021 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.

²⁴ *Id.* at 31.

²⁵ NERC also states that MRO has \$154,699 in penalty monies collected prior to July 1, 2019. *Id.* at 32–38, Attachment 3 at 3.

²⁶ *North American Electric Reliability Corp.*, 151 FERC ¶ 61,225 at P 19.

C. **WIRAB Business Plan and Budget**

18. WIRAB proposes statutory expenses of \$1,205,500 in 2021, which is a \$49,700 (4.0%) decrease from its 2020 budget.²⁷ To fund its operations in 2021, WIRAB proposes a statutory assessment of \$986,300, of which \$826,979 would be allocable to end users in the United States.²⁸

19. The NERC Application indicates that WIRAB's proposed key activities in 2021 include the following: (1) advise WECC to improve its assessment of resource adequacy to ensure that state and provincial regulators, the Commission, and NERC have access to accurate, consistent, and timely information to inform capacity expansion decisions in the West; (2) advise WECC to assess the reliability benefits and risks in implementing dynamic line ratings throughout the Western Interconnection; (3) advise Western Reliability Coordinators on opportunities to improve operational performance metrics to ensure consistency, to identify best practices, and to strive for exceptional reliability in the Western Interconnection; and (4) advise WECC to perform comprehensive and forward-looking assessments of the provision of essential reliability services as many states and provinces set goals addressing a possible "100% clean" or zero carbon energy future in the West.²⁹ WIRAB's budget includes 4.75 FTEs for 2021, which is 0.25 FTEs less than in its 2020 budget.³⁰

Commission Determination

20. Based on the information provided in the instant filing, we conclude that WIRAB's 2021 business plan and budget is reasonable and, accordingly, we accept WIRAB's 2021 business plan and budget.

The Commission orders:

- (A) NERC's 2021 business plan and budget is hereby accepted.
- (B) The Regional Entities' 2021 business plans and budgets are hereby accepted.

²⁷ NERC Application at 42.

²⁸ *Id.*, Attachment 1 at 2; Attachment 9 (Western Interconnection Regional Advisory Body Proposed 2021 Business Plan and Budget) at 3.

²⁹ *Id.*, Attachment 9 at 8-14.

³⁰ *Id.*, Attachment 9 at 15.

(C) NERC's request for waiver to Section 1107 of its Rules of Procedure for NERC, MRO, NPCC, and SERC is hereby granted.

(D) WIRAB's 2021 business plan and budget is hereby accepted.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.