

153 FERC ¶ 61,134  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;  
Cheryl A. LaFleur, Tony Clark,  
and Colette D. Honorable.

North American Electric Reliability Corporation

Docket No. RR15-16-000

ORDER ON 2016 BUSINESS PLANS AND BUDGETS

(Issued November 2, 2015)

1. On August 24, 2015, North American Electric Reliability Corporation (NERC) filed 2016 business plans and budgets for NERC, each Regional Entity,<sup>1</sup> and the Western Interconnection Regional Advisory Body (WIRAB) (collectively, NERC Application). For the reasons discussed below, the Commission accepts the 2016 business plans and budgets of NERC, the Regional Entities, and WIRAB, as well as the associated attachments and updates. NERC is authorized to issue billing invoices to fund the fiscal year 2016 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

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<sup>1</sup> The eight Regional Entities are: Florida Reliability Coordinating Council (FRCC); Midwest Reliability Organization (MRO); Northeast Power Coordinating Council, Inc. (NPCC); ReliabilityFirst Corporation (RFC); SERC Reliability Corporation (SERC); Southwest Power Pool Regional Entity (SPP RE); Texas Reliability Entity (Texas RE); and Western Electricity Coordinating Council (WECC).

Reliability Standards, subject to Commission review and approval.<sup>2</sup> In July 2006, the Commission certified NERC as the ERO.<sup>3</sup>

3. FPA section 215(c)(2)(B) 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.”<sup>4</sup> On February 3, 2006, the Commission issued Order No. 672 to implement the requirements of FPA section 215, 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 FPA section 215).<sup>5</sup> Among other things, Order No. 672 set forth requirements for funding the ERO and the approval of an ERO business plan and budget.<sup>6</sup> 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.<sup>7</sup> 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.

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<sup>2</sup> 16 U.S.C. § 824o (2012).

<sup>3</sup> *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).

<sup>4</sup> 16 U.S.C. § 824o(c)(2)(B).

<sup>5</sup> *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval and Enforcement of Electric Reliability Standards*, Order No. 672, FERC Stats. & Regs. ¶ 31,204, *order on reh’g*, Order No. 672-A, FERC Stats. & Regs. ¶ 31,212 (2006).

<sup>6</sup> Order No. 672, FERC Stats. & Regs. ¶ 31,204 at P 197.

<sup>7</sup> 18 C.F.R. § 39.4(b) (2015).

## **B. NERC's 2016 Business Plan and Budget**

4. The NERC Application contains NERC's proposed business plan and budget for the year ending December 31, 2016, as well as the proposed business plans and budgets of each of the eight Regional Entities and WIRAB for the year ending December 31, 2016.

5. NERC states that the proposed assessment for the total ERO (i.e., NERC, the Regional Entities, and WIRAB) for 2016 allocable to the United States is \$150,501,295, which includes \$51,785,828 for NERC funding; \$97,666,649 for Regional Entity funding; and \$1,048,819 for WIRAB funding.<sup>8</sup> NERC states that it will continue to allocate costs to end users in the United States based on net energy for load.

6. In addition to the NERC, Regional Entity, and WIRAB business plans and budgets, the NERC Application includes various attachments: Discussion of Comments Received During Development of NERC's 2016 Business Plan and Budget (Attachment 12); Calculation of Adjustments for Alberta Electric System Operator, Ontario Independent Electric System Operator, New Brunswick and the Quebec NERC Assessment (Attachment 13); Metrics Comparing Regional Entity Operations Based on 2016 Budgets (Attachment 14); Metrics on NERC and Regional Entity Administrative (Indirect) Costs Based on the 2015 and 2016 Budgets (Attachment 15); and Board of Trustee Remuneration Review (Attachment 16).

## **II. Notices, Responsive Pleadings, and Deficiency Letter**

7. Notice of NERC's August 24, 2015 filing was published in the *Federal Register*, 80 Fed. Reg. 52,471 (2015), with interventions and protests due on or before September 14, 2015.

8. WECC, Tri-State Generation and Transmission Association, Inc. (Tri-State), Idaho Power Company (Idaho Power), and Avista Corporation (Avista) filed timely motions to intervene. WIRAB and Eric Morris filed timely motions to intervene and comments.<sup>9</sup> Avista, Idaho Power, Portland General Electric Company, and Tri-State jointly filed comments (collectively, Joint Commenters). On September 21, 2015, Public Utility District No. 1 of Snohomish County (Snohomish) moved to intervene and file comments

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<sup>8</sup> NERC Application at 31, 34-35.

<sup>9</sup> The comments filed by Eric Morris suggest general discontent with NERC and its operations but do not include any actionable requests.

out-of-time. On October 1, 2015, NERC and WECC jointly filed a motion to answer protests and an answer to the comments of Joint Commenters and Snohomish.

9. On September 15, 2015, Commission staff issued a deficiency letter requesting additional information regarding the NERC Application.

10. On September 29, 2015, NERC filed a response to the deficiency letter. Notice of NERC's response was published in the *Federal Register*, 80 Fed. Reg. 60,894 (2015), with interventions and protests due on or before October 13, 2015. On October 9, 2015, Avista, Portland General Electric Company and Tri-State (Answering Parties) filed joint comments on NERC's response to the deficiency letter, combined with a joint motion for leave to answer and an answer to NERC's October 1, 2015 answer.

### **III. Discussion**

#### **A. Procedural Matters**

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

12. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2015), the Commission will grant Snohomish's late-filed motion to intervene given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

13. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2015), prohibits an answer to an answer unless otherwise ordered by the decisional authority. We will accept the answers filed by NERC and WECC, and by the Answering Parties because they provided information that has assisted us in our decision-making process.

#### **B. Substantive Matters**

##### **1. NERC Application**

14. NERC states that it prepared its 2016 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 2016 business plans and budgets were discussed by the Finance and Audit Committee as well as the full NERC Board of Trustees, in meetings and conference calls, with each event providing opportunities for stakeholders to comment.

15. NERC states that its principal goals in 2016 are focused on the following areas: (1) continuing to implement NERC's risk-based strategy, with a focus on a set of current high-priority risk projects focused on risks to the reliability of the bulk electric system from changing resource mix, extreme physical events, cybersecurity threats, protection system misoperations, extreme weather preparedness, and right-of-way clearances; (2) physical and cyber security of the bulk electric system; (3) continuing to implement risk-based compliance monitoring and enforcement operations; (4) implementing the revised bulk electric system definition; (5) continuing to implement a risk-based registration system; and (6) transforming the NERC Reliability Standards to a steady state.<sup>10</sup>

16. NERC states that its 2016 business plan and budget is based on the following program areas: (1) Reliability Standards; (2) Compliance Monitoring and Enforcement Program and Organization Registration and Certification, which is comprised of Compliance Assurance, Compliance Analysis and Certification and Registration, and Compliance Enforcement; (3) Reliability Assessment and Performance Analysis; (4) Reliability Risk Management, which is comprised of Situation Awareness and Event Analysis; (5) Electricity Sector Information Sharing and Analysis Center (ES-ISAC);<sup>11</sup> and (6) Training, Education, and Operator Certification.<sup>12</sup> For these program areas, NERC describes each program, identifies the program's goals and objectives, and provides the number of full-time equivalent employees (FTEs), as well as the amount budgeted for 2016. NERC also provides 2015 accepted budget data and 2015 year-end projected data for comparison.

17. NERC's proposed total funding requirement for 2016 is \$67,502,155, which is an increase of \$130,891 (0.2 percent) over NERC's 2015 budget.<sup>13</sup> Without the Cyber Risk Information Sharing Program (CRISP), NERC's budget would increase by \$1,885,460 (3.3 percent) over its 2015 budget.<sup>14</sup> NERC's proposed 2016 net funding requirement is \$57,081,445 (i.e., total budget less funding from other sources), of which \$51,785,828 is

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<sup>10</sup> NERC Application at 7.

<sup>11</sup> NERC recently changed the name of the ES-ISAC to the Electricity Information Sharing and Analysis Center.

<sup>12</sup> NERC Application at 3-4.

<sup>13</sup> *Id.* at 19.

<sup>14</sup> *Id.* at 8.

allocated to the United States.<sup>15</sup> The net funding requirement allocated to the United States is an increase of \$1,738,988 (3.5 percent) over the 2015 budget proposal.<sup>16</sup> NERC states that its proposed total United States net funding requirement for the ERO enterprise is equivalent to \$0.000013 per kWh, based on the aggregate Net Energy for Load of the United States in 2014.<sup>17</sup>

18. NERC states that the proposed 2016 business plan and budget reflects a provision for working capital and operating reserve funding in the amount of \$380,490.<sup>18</sup> Finally, NERC proposes a 2016 staffing level of 192.47 FTEs, which is an increase of 0.17 FTEs over the 2015 budget staffing level.<sup>19</sup>

19. NERC states that it received \$3,710,000 in penalty monies for the period of July 1, 2014 through June 30, 2015.<sup>20</sup> NERC requests to use \$1,439,000 of the penalty monies to reduce 2016 assessments, and allocate the remaining \$2,271,000 into the assessment stabilization reserve pursuant to NERC's amended working capital and reserve policy (Reserve Policy) as accepted by the Commission.<sup>21</sup> Accordingly, pursuant

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<sup>15</sup> *Id.* at 22, 34. NERC's other funding sources are penalty payments, third-party funding for CRISP, revenue from services and software, testing and workshop fees, and interest. *Id.* at 20-21.

<sup>16</sup> *Id.* at Attachment 2, 8-9.

<sup>17</sup> *Id.* at 21.

<sup>18</sup> *Id.* at 20.

<sup>19</sup> *Id.* at Attachment 2, 15.

<sup>20</sup> NERC received an additional \$1,000,000 in penalty monies on July 9, 2014. NERC requested to use this penalty money to offset its assessments for the 2015 fiscal year. Request of the North American Electric Reliability Corp. for Acceptance of 2015 Business Plan and Budget, *et al.* (NERC 2015 Budget Filing), Transmittal Letter at 77-79, North American Electric Reliability Corp., Docket No. RR14-6-000 (filed Aug. 22, 2014). NERC's 2015 budget was accepted by the Commission on October 16, 2015. *North American Electric Reliability Corp.*, 149 FERC ¶ 61,028 (2014).

<sup>21</sup> *North American Electric Reliability Corp.*, 151 FERC ¶ 61,225 (2015); *North American Electric Reliability Corp.*, Docket No. RR15-8-001 (Sept. 18, 2015) (delegated letter order).

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 the allocation of \$2,271,000 in penalty monies to the assessment stabilization reserve, rather than use these monies to reduce assessments in 2016.

## 2. Deficiency Letter and Response

20. The deficiency letter asked NERC, *inter alia*, to (1) justify deviations between its 2015 budgeted levels and its 2015 year-end projections in several of its program areas, and to the extent necessary, discuss how such deviations relate to the limits and filing requirements under Paragraph 7(b)(ii) of a Settlement Agreement resulting from a Commission staff audit of NERC;<sup>22</sup> and (2) provide further justification for the incremental statutory funding required for the ES-ISAC due to CRISP, and explain why the statutory funding proposed for CRISP is increasing in 2016 while overall user-funding for CRISP is decreasing, compared to 2015.<sup>23</sup>

21. NERC responds, first, that the proposed budgets for each year are generally prepared during the first six to seven months of the preceding year, are approved by the NERC Board of Trustees at a meeting held in early to mid-August of the preceding year, and are filed with the Commission on or about August 24 of the preceding year as required by the Commission's regulations. NERC explains that, by the time of the annual business plan and budget filing with the Commission, the current year budget is more than a year old, and subsequent events and changing demands on NERC's operations often result in variances between the budget for the current year and the currently projected year-end results for the current year. Accordingly, given the long lead time

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<sup>22</sup> The terms under Paragraph 7(b)(ii) state that the "requirement for Commission review and approval is triggered if any amount allocated from . . . operating reserves plus any amount re-directed from previously budgeted funds is, in the aggregate, \$500,000 or more for any one specific project or major activity in a program area." *North American Electric Reliability Corp.*, 142 FERC ¶ 61,042, at P 7 of attached Settlement Agreement (2013) (Settlement Agreement) (discussing requirements pertaining to NERC transfers of funds from its operating reserve account); *see also North American Electric Reliability Corp.*, 151 FERC ¶ 61,225 at P 18.

<sup>23</sup> In its 2015 business plan and budget filing, NERC provided a table detailing the incremental cost to the ES-ISAC due to CRISP requiring additional statutory funding. NERC 2015 Budget Filing, Attachment 2, Exhibit F at 137-139, *North American Electric Reliability Corp.*, Docket No. RR14-6-000 (Aug. 22, 2014).

between budget preparation and the budget operating year, NERC maintains that “intra-year resource reallocations are neither unusual, nor should they be unexpected.”<sup>24</sup>

22. NERC notes that it prepares and reviews quarterly budget variance reports with NERC’s Finance and Audit Committee, and that “these reports track actual to budgeted results for each of the categories of funding, expense and fixed assets set forth on NERC’s statement of activities which sets forth its overall budget for the current year.”<sup>25</sup> NERC further notes that it files these reports with the Commission.

23. NERC states that the variance in FTEs between the 2015 budgeted and year-end projections for individual programs are due to the timing of transfers of open budgeted positions or transfers of existing personnel, and a reduction in the assumed vacancy rate for approved positions. For each of the program areas listed by the Commission in its deficiency letter, NERC details where each FTE was reallocated within NERC through June 2015, and notes that total FTEs during this period remained within NERC’s overall approved personnel budget.

24. In response to the deficiency letter question regarding how such reallocations relate to the requirements for Commission review and approval under Paragraph 7(b)(ii) of the Settlement Agreement, NERC maintains that for each of the areas listed in the deficiency letter, no funds were transferred from operating reserves and that total FTEs remained within NERC’s overall approved 2015 personnel budget. NERC asserts, as a result, that no filing pursuant to Paragraph 7(b)(ii) was necessary.

25. Responding to the deficiency letter request to provide further justification for the incremental statutory funding required for the ES-ISAC due to CRISP, NERC includes additional detail regarding the incremental costs, and explains that the most significant factor for the decrease in user fees for CRISP is the non-recurrence of one-time startup costs incurred in 2015, which includes a one-time payment of \$500,000 to establish a reserve fund for CRISP. In addition, NERC clarifies that costs for ES-ISAC continue to be allocated 50 percent to NERC and 50 percent to participating utilities, and provides additional information to support that clarification.<sup>26</sup>

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<sup>24</sup> NERC Response at 3.

<sup>25</sup> *Id.* at 3 n.4.

<sup>26</sup> *Id.* at 12-13, Attachment 1.



### Commission Determination

26. We accept NERC's 2016 business plan and budget. We find that NERC's 2016 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 exception under section 1107.4 of the NERC Rules of Procedure and allow NERC to allocate \$2,271,000 in penalty monies to the assessment stabilization reserve. We note that the decision here is limited to this case. Any future requests for exception to section 1107.2 of the NERC Rules of Procedure will be addressed based on the facts at that time.

27. While we accept the 2016 budget plan and budget, we disagree with NERC's interpretation of its responsibilities under paragraph 7(b)(ii) of the Settlement Agreement to file with the Commission for review and approval of the transfers of funds of at least \$500,000 from one major activity to another during 2015. In its response to the deficiency letter, NERC stated that because no funds were transferred from operating reserves and total FTEs remained within NERC's overall approved personnel budget, NERC was not required to file with the Commission pursuant to paragraph 7(b)(ii) of the Settlement Agreement. However, when reviewing NERC's proposal to amend the Reserve Policy, the Commission directed NERC to clarify that the amended policy requires "that any reallocation and expenditure of budgeted funds, including from the assessment stabilization reserve, is subject to the requirements of Paragraph 7(b)(ii) of the Settlement Agreement."<sup>27</sup> NERC made that clarification, and the Commission accepted it.<sup>28</sup> Thus, NERC's interpretation of when Commission review is required by

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<sup>27</sup> *North American Electric Reliability Corp.*, 151 FERC ¶ 61,225 at P 18.

<sup>28</sup> *North American Electric Reliability Corp.*, Docket No. RR15-8-001 (Sep. 18, 2015) (delegated letter order). NERC's current Reserve Policy states that:

Any reallocation of budgeted funds and/or expenditure of Operating Reserves . . . 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 in accordance with the terms and conditions of Section 7(b)(ii) of the Settlement Agreement . . . .

Request for Approval of Revisions to NERC's Working Capital and Operating Reserve Policy, Attachment 1, Docket No. RR15-8-001 (Aug. 14, 2015).

Paragraph 7(b)(ii) is more limiting than the language of the provision as applied in the current Reserve Policy.

28. Additionally, we are concerned that NERC may misunderstand what constitutes a “major activity” under Paragraph 7(b)(ii) of the Settlement Agreement. NERC relies on the fact that NERC’s total FTEs remained within NERC’s overall approved personnel budget, despite reallocating such staff between Program Areas. However, for the purposes of Paragraph 7(b)(ii), NERC and the Commission agreed to the term “major activities” as described in the 2013 Budget Order,<sup>29</sup> and NERC applied this definition in its creation and application of its statutory criteria.<sup>30</sup> Accordingly, any major activity to which NERC applies its statutory criteria falls under the reporting requirements of Paragraph 7(b)(ii).

29. Therefore, we expect NERC to be mindful of its reporting requirements under the Reserve Policy and Settlement Agreement going forward. For the avoidance of doubt, we clarify that for the 2016 budget year and all future budget years, the Commission expects that NERC must submit to the Commission for approval any reallocations of budgeted funds and/or expenditure of operating reserves required by its Reserve Policy and the Settlement Agreement.

### **3. Regional Entity Business Plans and Budgets**

30. NERC’s Application includes the 2016 business plans and budgets of each Regional Entity. NERC states that it reviewed the Regional Entity business plans and budgets and concludes that each Regional Entity proposes necessary and adequate

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<sup>29</sup> Settlement Agreement, 142 FERC ¶ 61,042, at n.5. *See also North American Electric Reliability Corp.*, 141 FERC ¶ 61,086, at P 31 (2012) (2013 Budget Order) (“As NERC explains, ‘major activities’ recognizes that various activities in a program area can be grouped into categories and the purpose and statutory basis for each such category explained, without the need to describe each activity therein.”) (citing Reply Brief of the North American Electric Reliability Corporation at 47-48, Docket No. FA11-21-000 (Sept. 10, 2012)).

<sup>30</sup> *See* NERC Application, Attachment 2, Exhibit B (discussing “how the major activities in NERC’s 2016 Business Plan and Budget meet the NERC written criteria for determining whether a reliability activity is eligible to be funded under §215 of the Federal Power Act.”). These written criteria were approved by the Commission in *North American Electric Reliability Corp.*, 143 FERC ¶ 61,052 (2013) (Statutory Criteria Order).

resources to carry out its delegated functions.<sup>31</sup> The Commission finds that each Regional Entity submission reasonably supports the level of expenditures identified in the budgets, and is focused on adequately staffing and funding all of their respective program areas to perform the delegated, statutory functions. Accordingly, the Commission accepts the Regional Entity business plans and budgets. However, we address below the concerns raised by the Joint Commenters, Snohomish, and the Answering Parties concerning WECC's business plan and budget.

**a. WECC Business Plan and Budget**

**i. Comments**

31. WIRAB states that it reviewed WECC's 2016 business plan and budget and found that all proposed activities are eligible and appropriate for funding under FPA section 215. WIRAB requests that the Commission approve WECC's proposed 2016 budget.<sup>32</sup>

32. Joint Commenters argue that certain activities performed by WECC are either not delegable to Regional Entities or are not statutory under FPA section 215. Joint Commenters request that the Commission reject NERC's 2016 budget request to the extent the WECC budget attempts to fund non-statutory activities through statutory funding, and direct NERC and WECC to submit a conforming 2016 business plan and budget for approval.

33. Joint Commenters specifically argue that only two discrete functions—the promulgation and enforcement of Reliability Standards—are delegable to Regional Entities.<sup>33</sup> Joint Commenters note that the Regional Entities are not precluded from performing other activities, but assert that any activities performed beyond these two discrete functions must be funded from sources other than statutory section 215 funding.<sup>34</sup>

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<sup>31</sup> NERC Application at 28-29.

<sup>32</sup> WIRAB Comments at 1-2.

<sup>33</sup> Joint Commenters September 14 Comments at 3.

<sup>34</sup> *Id.* at 5 (citing Order No. 672, FERC Stats. & Regs. ¶ 31,204 at P 202).

34. Joint Commenters allege that certain activities performed by WECC in its Reliability Assessment and Performance Analysis and Situational Awareness and Infrastructure Security (SAIS) program areas are not statutory under FPA section 215. First, Joint Commenters maintain that many of the goals and deliverables of the Reliability Assessment and Performance Analysis program, which include developing and maintaining a database for production cost and capital cost models and conducting system adequacy analyses and supporting the interconnection-wide transmission expansion planning process, “are traditional planning and operations-based WECC programs that predate the Energy Policy Act of 2005, and therefore predate section 215.”<sup>35</sup> Joint Commenters also note that WECC’s transmission expansion planning activity aligns with the non-statutory activities of FRCC and SPP.<sup>36</sup>

35. Similarly, Joint Commenters maintain that activities under WECC’s SAIS program area are not activities properly delegable to a Regional Entity. Moreover, Joint Commenters note that some WECC activities are potentially duplicative of those performed by Peak Reliability, now acting as the reliability coordinator, such as “maintain[ing] near real-time situational awareness about the conditions and significant occurrences on the Bulk Electric System in the Western Interconnection.”<sup>37</sup>

36. Finally, Joint Commenters argue that the Commission should review NERC’s 2016 budget request, particularly WECC’s budget request, in conjunction with its review of the WECC Delegation Agreement in Docket No. RR15-12-000, given WECC’s and NERC’s reliance on the Delegation Agreement as approved by the Commission to support the propriety of activities delegated to the Regional Entities.<sup>38</sup>

37. Snohomish argues that the activities of WECC’s Transmission Expansion Planning Policy Committee (TEPPC) are not statutory activities, and therefore not eligible for funding under FPA section 215. Snohomish notes that WECC lists the

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<sup>35</sup> *Id.* at 7-8.

<sup>36</sup> *Id.* at 8 n.21.

<sup>37</sup> *Id.* at 9-10 (quoting NERC Application, Attachment 10 at 28).

<sup>38</sup> Snohomish also noted its participation in Docket No. RR15-12-000, and noted its continued belief “that it is more appropriate to include limitation language [regarding non-statutory activities such as energy market activities] in the regional delegation agreement, rather than on a case by case basis through the annual budget and assessment process.” Snohomish Comments at 5.

TEPPC's four main functions as follows: (1) oversee and maintain public databases for transmission planning; (2) develop, implement, and coordinate planning processes and policy; (3) conduct transmission planning studies; and (4) prepare interconnection-wide transmission plans. Snohomish argues that the second through the fourth functions are not reliability activities at all, but are commercial activities and not statutory under FPA section 215.<sup>39</sup>

38. With regard to the first function—maintaining public databases for transmission planning—Snohomish states a concern “that making detailed transmission models available to the public is not in the best interest of reliability.” Snohomish recommends that “if WECC is the maintainer of a transmission planning database that includes commercial and siting information it should be moved to the Non-Statutory Budget category,” and be funded separately.<sup>40</sup>

39. Snohomish also states its concern regarding WECC's activities related to market seams and coordination.<sup>41</sup> Snohomish maintains that WECC should not address this activity, as it is the responsibility of the regional planning organizations, their members, and other market participants. Snohomish points out that other Commission-regulated energy markets are not statutorily funded, and that allowing a Regional Entity to use FPA section 215 funds to administer energy markets would be inconsistent with how other markets are funded. Snohomish notes that it does not object to Regional Entities taking on additional non-statutory activities, including administering a transmission planning process or an energy market, and that some Regional Entities may be well positioned to perform these activities, but that such activities are beyond the scope of the reliability-related activities under FPA section 215.

40. Based on these concerns, Snohomish requests that the Commission direct WECC to move the \$111,000 increase for consultant expenses for transmission expansion scenario studies to WECC's non-statutory budget category, and to revise its 2016 budget to separate out the activities of the TEPPC, other transmission planning activities

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<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.* at 8 (citing NERC Application, Attachment 10 at 4).

unrelated to reliability (such as those related to the Commission's Order No. 1000),<sup>42</sup> and any activities related to the administration of a commercial activity like an energy market.

**ii. Answers to Comments**

41. In their answer to Joint Commenters and Snohomish, NERC and WECC state that the Commission has consistently approved the Reliability Assessment and Performance Analysis and SAIS activities that Joint Commenters call into question.<sup>43</sup> Additionally, NERC and WECC state that WECC has developed written criteria for determining whether a WECC activity may be funded under FPA section 215 that were based on, and essentially identical to, the Commission-approved written criteria developed by NERC.<sup>44</sup> NERC and WECC state that WECC's Reliability Assessment and Performance Analysis and SAIS program areas fit within NERC's Criteria III and V, which assess whether the activity is necessary or appropriate for conducting or disseminating periodic assessments of the reliability of the Bulk-Power System, or whether the activity is required or specified by the provisions of NERC's Rules of Procedure.<sup>45</sup>

42. NERC and WECC also state that the Reliability Assessment and Performance Analysis activities questioned by Joint Commenters, including those of WECC's TEPPC and Market Interface Committee, support the kinds of Reliability Assessment and Performance Analysis activities that are outlined in NERC Rules of Procedure sections 800, 802, 804, and 805.<sup>46</sup>

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<sup>42</sup> *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014) (Order No. 1000).

<sup>43</sup> NERC and WECC Answer at 5 (citing *North American Electric Reliability Corp.*, 117 FERC ¶ 61,091, at P 38 (2006) (2007 Budget Order)).

<sup>44</sup> *Id.* at 7 (citing Statutory Criteria Order, 143 FERC ¶ 61,052). NERC includes the WECC written criteria as part of its application in Attachment 2, Exhibit B.

<sup>45</sup> *See* Statutory Criteria Order, 143 FERC ¶ 61,052 at PP 39-41.

<sup>46</sup> NERC and WECC Answer at 7-9.

43. With respect to the SAIS program, NERC and WECC state that WECC's SAIS activities including "maintaining near real-time awareness and assessing risks about the conditions and significant occurrences on the [Bulk-Power System] in the Western Interconnection, with the objective of recognizing conditions and situations that could impact the reliability of the [Bulk-Power System]." <sup>47</sup> WECC explains, however, that it has access to "limited real-time data" and that its role is to understand system issues and to coordinate with relevant parties to discern patterns and risks to the system. NERC and WECC state that WECC performs all situation awareness activities except the reliability coordinator function, which is performed by Peak Reliability. <sup>48</sup>

44. With respect to the concerns raised by Snohomish regarding the activities of the TEPPC, NERC and WECC state that the predominant transmission planning database maintained by TEPPC is the 10-Year Common Case, which describes the loads, generation and transmission topology that are expected to be in place in 10 years' time, and that this 10-Year Common Case is used in production cost simulations suggested by WECC stakeholders to identify potential congestion that could threaten reliability. NERC and WECC state that the 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 [Bulk-Power System], and (2) awareness of circumstances on the [Bulk-Power System] and contribute to understanding risks to reliability." <sup>49</sup>

45. NERC and WECC state that the activities of the Market Interface Committee focus on the interface of reliability and market operations, and that the Market Interface Committee limits its market interface activities to only those that impact reliability and expressly avoids any market activities that have no reliability implications. NERC and WECC state that the responsibilities of the Market Interface Committee are to consider matters pertaining to the impact of WECC's Reliability Standards, practices, and procedures on the commercial electricity market in the Western Interconnection, and

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<sup>47</sup> *Id.* at 11.

<sup>48</sup> *Id.* at 12.

<sup>49</sup> *Id.* (citing criterion III.A and III.D of NERC Section 215 Criteria for the Reliability Assessment and Performance Analysis Program). See NERC Application at Attachment 2, Exhibit B at 110; see also Statutory Criteria Order, 143 FERC ¶ 61,052 at PP 39-41.

participate in identifying issues and developing recommendations for regional criteria related to market interface issues.

46. NERC and WECC state that, as with WECC's TEPPC activities, FPA section 215 funding is appropriate for the Market Interface Committee's activities because section 802 of the NERC Rules of Procedure specifies that the scope of Reliability Assessment and Performance Analysis includes "[i]nvestigate, 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." Additionally, NERC and WECC state that the Market Interface Committee'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 Rules of Procedure, which requires that Reliability Standards "meet certain market-related objectives, specifically those dealing with competition, market structure, market solutions, commercially sensitive information, and adequacy."<sup>50</sup> NERC and WECC also state that the Market Interface Committee's participation in developing recommendations for regional criteria related to market interface issues is consistent with section 313 of the NERC Rules of Procedure, which allows Regional Entities to develop regional criteria, as described therein.<sup>51</sup>

47. NERC and WECC state that, while the specific activities in WECC's Reliability Assessment and Performance Analysis and SAIS programs may differ from year to year, WECC continues to perform the same types of activities that it has historically performed and that have consistently been approved by the Commission since 2007, both in the regional delegation agreement and business plan and budget filings. Finally, NERC and WECC note that WECC has no intention of undertaking transmission planning obligations under Order No. 1000 or operating an energy imbalance market.

48. In response to NERC's and WECC's claims in response to Snohomish and the Joint Commenters,<sup>52</sup> the Answering Parties maintain that NERC and WECC never explain how WECC's Reliability Assessment and Performance Analysis program and its Situational Awareness activities can be eligible for FPA section 215 funding under the terms of the statute itself. The Answering Parties note that NERC and WECC instead

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<sup>50</sup> *Id.* at 10.

<sup>51</sup> *Id.* at 9-11.

<sup>52</sup> The Answering Parties combined their comments in response to NERC's deficiency letter response with their answer to NERC's answer to Snohomish and Joint Commenters. The deficiency letter response is discussed further below.



rely on the Commission's prior approval of FPA section 215 funding for these activities, and the fact that the activities are consistent with NERC's and WECC's written criteria for determining section 215 fundability, and consistent with NERC's Rules of Procedure. The Answering Parties maintain that the only functions that can be delegated to a Regional Entity are as stated in FPA section 215, i.e., proposing Reliability Standards to the ERO and enforcing Reliability Standards. While the Answering Parties concede that NERC is authorized to "conduct periodic assessments of the reliability and adequacy of the [B]ulk-[P]ower [S]ystem," FPA section 215 does not permit NERC to delegate this function to the Regional Entities and, consequently, does not permit statutory funding of such activities by the Regional Entities.

### iii. Deficiency Letter and Response

49. The deficiency letter asked NERC to (1) provide the current and 2015 year-end projections of the \$3.4 million in penalty monies withheld in 2015 by WECC to offset payments of penalties imposed on WECC's registered entity functions,<sup>53</sup> and (2) explain if the increase in consultant expenses for transmission planning activities proposed for 2016 relates to WECC's past transmission expansion activities, and, if so, explain the nature of WECC's proposed transmission expansion planning activities.

50. In regard to the Commission's request to provide the current and year-end projections of the \$3.4 million in penalty monies withheld in 2015 by WECC, NERC explains that the use of the \$3.4 million of penalties was shown in WECC's 2015 business plan and budget and WECC's annual actual cost-to-budget true-up reports for the years 2013 and 2014. NERC explains that \$1.4 million was recorded in 2013 and \$2.0 million was recorded in 2014 as miscellaneous expenses. NERC explains that, in terms of cash payments, \$0.4 million was paid in January 2015 and \$1 million in May 2015. NERC states that WECC will pay \$1 million in May 2016 and \$1 million in 2017.<sup>54</sup> NERC notes that one-half of the payments in May of 2015, 2016, and 2017 have gone or will go to NERC, and the other half to the U.S. Treasury in accordance with the terms of the settlement agreement among the Commission's Office of Enforcement, NERC, WECC, and Peak Reliability relating to the September 8, 2011 outage event, approved by the Commission on May 26, 2015.<sup>55</sup> Accordingly, NERC explains, the

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<sup>53</sup> NERC 2015 Budget Filing, Transmittal Letter at 104-105, Attachment 10 at 53, North American Electric Reliability Corp., Docket No. RR14-6-000 (Aug. 22, 2014).

<sup>54</sup> NERC Response at 18.

<sup>55</sup> *Western Electricity Coordinating Council*, 151 FERC ¶ 61,175 (2015).

balance of the \$3.4 million in penalty revenues remaining to be paid as of December 31, 2015 is \$2.0 million.<sup>56</sup>

51. In regard to the Commission's request to explain if the increase in consultant expenses for transmission planning activities proposed for 2016 relates to WECC's past transmission expansion activities, and to explain the nature of WECC's proposed transmission expansion planning activities, NERC and WECC provide further background as to the nature of the TEPPC's activities. NERC explains that WECC's TEPPC has three main functions: "(1) to oversee and maintain public data bases to support transmission planning across the Western Interconnection; (2) to develop, implement and coordinate planning processes and policy; and (3) to conduct Interconnection-wide transmission planning studies with an eye towards resource and transmission adequacy assessments."<sup>57</sup> NERC explains that "WECC's proposed 2016 transmission planning support activities, and the associated increase in consultant expenses referred to in the Commission's deficiency letter, are directly related to WECC's past transmission planning support activities," and that the scope of WECC's transmission planning related activities has not significantly changed since 2007.<sup>58</sup>

52. NERC explains that WECC experienced a decrease in consultants and contracts expense from the 2014 budget to the 2015 budget due to the expiration of the Regional Transmission Expansion Planning (RTEP) grant from the U.S. Department of Energy (DOE). NERC states that while WECC was able to use the RTEP grant funds efficiently to add significant value to its transmission expansion planning-related activities, "many of the activities funded through the RTEP grant were one-time initiatives to develop or procure tools."<sup>59</sup> NERC states that WECC's budgets for consultants and contracts for 2015 and 2016 (and projected for subsequent years) include, among other things, activities to build upon, enhance, or maintain initiatives that began under the funding provided by the DOE RTEP grant.<sup>60</sup>

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<sup>56</sup> NERC Response at 19.

<sup>57</sup> *Id.* at 19-20.

<sup>58</sup> *Id.* at 20.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

iv. **Deficiency Letter Comments**

53. In their comments on NERC's response to the deficiency letter, the Answering Parties argue that NERC's description of WECC's transmission planning and related activities serves to illustrate the overly broad nature of NERC's and WECC's understanding of what activities may be properly delegated to WECC. The Answering Parties specifically point to the description of WECC's transmission expansion planning activities, as contained in NERC's response, as illustrating the type of activities that are not within the scope of delegable FPA section 215 functions or FPA section 215 funding.

**Commission Determination**

54. First, we are satisfied with NERC's response regarding the status of the \$3.4 million in penalty monies withheld by WECC, and will not require NERC or WECC to file any additional information as to its 2016 business plan and budget on that item. However, with respect to WECC's 2017 business plan and budget, we direct WECC to include information on any further payments made and to be made for penalties imposed on WECC.

55. As a general matter, we find that WECC's Reliability Assessment and Performance Analysis and SAIS activities are within the ambit of those that the Commission has historically recognized as appropriate for statutory funding under FPA section 215, and that we have not previously found reason to distinguish between the kinds of activities that can be funded by FPA section 215 when conducted by NERC versus those conducted by a Regional Entity:

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.<sup>61</sup>

56. Pursuant to section 215(g) of the FPA, NERC has the statutory authority—indeed obligation—to perform periodic reliability assessments.<sup>62</sup> NERC, in fact, relies on the

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<sup>61</sup> 2007 Budget Order, 117 FERC ¶ 61,091 at P 38.

<sup>62</sup> See FPA section 215(g) (“The ERO shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.”).

eight Regional Entities to provide the region-specific information and analysis contained in ERO periodic assessments. The Commission has authorized the Regional Entities to obtain and analyze such information to support periodic system assessments, “as set out in the Rules of . . . each applicable Regional Entity.”<sup>63</sup> NERC and WECC have provided a detailed discussion of how the WECC TEPPC, Market Interface Committee and other Reliability Assessment and Performance Analysis activities support the statutorily-required periodic reliability assessments.<sup>64</sup> The Regional Entities need a guaranteed, consistent source of funds to assist the ERO in performing this statutory requirement.

57. Moreover, based on the additional information and representations made by NERC and WECC regarding WECC’s transmission expansion planning and other activities, we find that the primary purpose of the specific activities discussed by the commenters is related to WECC’s delegated statutory functions and, therefore, these activities are eligible for funding pursuant to FPA section 215 funding. For example, NERC and WECC explain that the Market Interface Committee focuses on the interface of reliability and market operations, including the consideration of matters pertaining to the impact of WECC’s Reliability Standards.<sup>65</sup> Likewise, the planning activities at issue may reveal new problems or conditions, or add to knowledge about existing problems or conditions, that would be considered in the course of identifying, drafting, and voting on amendments to existing WECC Regional Reliability Standards, new WECC Regional Reliability Standards, or continent-wide Reliability Standards. As such, we find these activities are appropriately funded under FPA section 215 and would also fall within the ERO’s specific authority in FPA section 215(e)(4) to delegate to Regional Entities authority to propose Reliability Standards.<sup>66</sup> The planning activities may also reveal or

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<sup>63</sup> See 18 C.F.R. § 39.2(d) (requiring that each user, owner or operator the Bulk-Power System “shall provide the Commission, the Electric Reliability Organization and the applicable Regional Entity such information as is necessary to implement section 215 of the Federal Power Act as determined by the Commission and set out in the Rules of the Electric Reliability Organization and each applicable Regional Entity”).

<sup>64</sup> See NERC and WECC Answer at 7-11.

<sup>65</sup> *Id.* at 10 (citing WECC Bylaws, Section 8.2.5). NERC and WECC explain that the Market Interface Committee “leaves the coordination of those [non-reliability related] activities to market participants and the North American Energy Standards Board (NAESB).”

<sup>66</sup> Several commenters in the proceeding addressing NERC’s petition for approval of revised Delegation Agreements between NERC and each Regional Entity raise similar

(continued...)

provide further information about system conditions or other facts that would affect how WECC or other Regional Entities decide to assess compliance with, or enforce, existing or future WECC Regional Reliability Standards or continent-wide Reliability Standards. The planning activities, therefore, are appropriately funded under FPA

section 215 and also would fall within the ERO's authority under section 215(e)(4) to delegate authority to Regional Entities to enforce Reliability Standards.<sup>67</sup>

58. While we acknowledge that certain WECC activities, including its transmission expansion planning activities and studies, may have other secondary uses, this does not change the fact that the activities are consistent with our approved criteria for determining whether funding is appropriate, and, ultimately, are necessary or appropriate activities for Reliability Standards development and enforcement.<sup>68</sup> We further note that WECC has indicated that its role in maintaining awareness of system conditions is to identify trends and risks to the system, and that it is responsible for all situational awareness activities other than those performed by Peak Reliability as part of its reliability coordinator function. As such, we disagree with Joint Commenters that WECC's situational awareness is duplicative of the responsibilities of Peak Reliability as reliability coordinator and note that the Commission has previously ruled that it is appropriate for a Regional Entity to maintain situational awareness, separate from that of

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issues regarding whether specific tasks are eligible for funding under FPA section 215. In an order issuing concurrently with the order in this proceeding, the Commission states that it defers review of section 215 funding for specific tasks to the annual NERC business plan and budget. *North American Electric Reliability Corp.*, 152 FERC ¶ 61,135, at P 38 (2015).

<sup>67</sup> The Commission has recognized that enforcement of Reliability Standards includes proactive compliance efforts, and has found such activities, carried out by the ERO and Regional Entities, to be eligible for statutory funding. *See* 2007 Budget Order, 117 FERC ¶ 61,091 at PP 28-29 (finding ERO and Regional Entity reliability readiness activities to be acceptable for section 215 funding as “an important facet of . . . proactive efforts to maintain a reliable [B]ulk-[P]ower [S]ystem.”).

<sup>68</sup> Statutory Criteria Order, 143 FERC ¶ 61,052 at PP 32, 34, Attachment at 25, 26 (directing NERC in Criteria I.C and II.E to evaluate whether “the activity necessary or appropriate for information gathering, collection and analysis activities to obtain information reasonably necessary to monitor and enforce compliance with Reliability Standards”).

the reliability coordinator as necessary for it to comply with applicable Reliability Standards.<sup>69</sup> In making this determination, we also rely on WECC's assertion that it does not and will not undertake any obligations regarding transmission planning under Order No. 1000. However, the Commission will carefully review the scope of all future activities in which WECC may engage to ensure that funds collected pursuant to FPA section 215 are spent only on activities authorized by FPA section 215. To the extent any future WECC activity goes beyond activities that the Commission specifically has found to be eligible for funding pursuant to FPA section 215, WECC should seek alternative funding for those activities or, if it wishes to seek section 215 funding, specifically request and justify such funding for the activity in a future budget proceeding for Commission consideration.

#### **4. WIRAB Budget**

59. WIRAB proposes statutory expenses of \$1,370,274 in 2016, which is a \$356,693 increase from its 2015 budget. To fund its operations in 2016, WIRAB proposes a statutory assessment of \$1,239,998, of which \$1,048,819 would be allocable to end users in the United States.

60. WIRAB notes that its key activities in 2016 include: (1) rectifying the shortcomings in grid reliability practices at registered entities in the West; (2) improving WECC's ability to identify, analyze, and recommend actions to address major reliability challenges and participate in the analysis of those challenges; (3) creating a high performance organization at Peak Reliability; (4) encouraging WECC and Peak Reliability to adopt more open and transparent data sharing practices; (5) securing adequate and reliable funding for Peak Reliability; and (6) ensuring that both Peak Reliability and WECC can effectively identify and disseminate best practices to maintain physical and cyber security of the Western Interconnection. WIRAB's budget includes 5.5 FTEs for 2016, which is an increase of 1.5 FTEs over 2015.

#### **5. Deficiency Letter and Response**

61. The deficiency letter asked NERC to provide additional descriptions for WIRAB's proposed 2016 activities to justify its overall budget and FTE increase from the 2015 budget. In its response to the deficiency letter, NERC noted that in light of WIRAB's statutory status, NERC is not in a position to review and approve or reject the business plans and budgets that WIRAB submits to NERC for submission to the Commission.<sup>70</sup>

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<sup>69</sup> 2007 Budget Order, 117 FERC ¶ 61,091 at P 53.

<sup>70</sup> NERC Response at 13-14.

However, at NERC's request, WIRAB provided additional details and descriptions of its planned 2016 activities and explanation of the increase in its budgeted 2016 expenses and FTEs over its 2015 budget.

62. WIRAB states that its goals, initiatives, and activities are similar in 2015 and 2016, and that the major driver of the proposed increase in budget and FTEs is a change in its ability to leverage work previously funded with federal stimulus money to achieve its reliability mission and goals.<sup>71</sup> WIRAB notes that staff members who previously directed the State Provincial Steering Committee reliability-related work are transitioning to WIRAB activities.<sup>72</sup>

63. WIRAB states that it will seek to bolster WECC staff's analytical capabilities to investigate emerging reliability challenges in the West and to encourage WECC to develop improved production cost and power flow analyses of different future resource mixes to identify potential reliability issues such as insufficient ramping capability, insufficient frequency response, or insufficient voltage stability. WIRAB states that in 2015 the State Provincial Steering Committee funded work by GE Energy Consulting to develop a roadmap for assessing the reliability challenges associated with high levels of variable energy resources and the retirement of coal plants in the Western Interconnection. The resulting State Provincial Steering Committee report discussed the types of analysis and data needed to identify and quantify potential reliability problems, as well as the identification and analysis of mitigation options that can provide promising solutions. In 2016, WIRAB states its staff will continue to work with WECC to implement the recommendations and follow the roadmap put forward in the State Provincial Steering Committee report.<sup>73</sup>

64. WIRAB states that it will seek to "encourage WECC to use analytic capabilities to investigate the ramping capability and flexibility of the Western Interconnection in futures with high levels of variable generation."<sup>74</sup> WIRAB states that in 2015, the State

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<sup>71</sup> WIRAB notes that over that past five years, it has benefited from the reliability-related work funded by the State Provincial Steering Committee, which received funds under the American Recovery and Reinvestment Act. This funding ended in May 2015. *Id.* at 14.

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> *Id.* at 15.

Provincial Steering Committee funded work by Energy and Environmental Economics (E3) to develop and demonstrate a new tool for assessing the ramping capability and system flexibility of the Western Interconnection. WIRAB states that this was a collaborative project among the State Provincial Steering Committee, WECC, the National Renewable Energy Laboratory, and E3, and that the report investigated the need for power system flexibility to ensure reliable and economic operations of the interconnected Western electricity system under higher penetrations of variable energy resources. In 2016, WIRAB proposes that its staff will “continue to work with WECC, E3, and the National Renewable Energy Laboratory to further develop a flexibility planning paradigm and to use the Renewable Energy Flexibility (REFLEX) model to assess system flexibility needs in futures with high levels of variable generation.”<sup>75</sup>

65. WIRAB states that it will seek to encourage WECC to evaluate the impacts large-scale development of non-synchronous generation may have on system frequency response and transient stability, and to examine the impact that large-scale tripping of photovoltaics, due to outdated interconnection standards, may have on grid reliability. WIRAB states that in 2015, GE Energy Consulting provided the State Provincial Steering Committee with an analytical framework and a roadmap for assessing frequency response, transient stability and weak grid issues associated with the large-scale development of non-synchronous generation. The State Provincial Steering Committee also funded work by EQL Energy to examine the technical challenges, operational issues, and steps that utilities and regulators can take to prepare for increased levels of distributed energy resources. The resulting report identified the large-scale tripping of distributed energy resources as a potential reliability issue for the Western Interconnection, and found that at higher penetrations of distributed energy resource systems this automatic shut-off can have undesirable impacts on grid reliability. In 2016, WIRAB staff will continue to work with WECC to implement an analytical framework to conduct round-trip production cost and power flow modeling to analyze system frequency response, transient stability, and weak grid issues.<sup>76</sup>

66. WIRAB states that it will encourage WECC to use its analytic capabilities to investigate the reliability implications of the U.S. Environmental Protection Agency’s Clean Power Plan.<sup>77</sup> WIRAB states that in 2015, the State Provincial Steering

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<sup>75</sup> *Id.* at 15.

<sup>76</sup> *Id.*

<sup>77</sup> The Clean Power Plan was issued by the EPA as a Final Rule on August 3, 2015. *See Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units*, Docket No. EPA-HG-OAR-2013-0602 (Aug. 3, 2015),

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Committee funded work by Energy Solutions to develop future state-level resource mixes that could result from strategies that states may employ to comply with the Clean Power Plan. The resulting report documented the assumptions underlying four planning scenarios developed in consultation with a State Provincial Steering Committee modeling work group. WIRAB submitted two of the scenarios to WECC as a “practice run” of the modeling and analysis needed to analyze the Clean Power Plan prior to the release of the final rule for the plan. In 2016, WIRAB staff will continue to work with WECC to analyze the reliability implications of the Clean Power Plan, and WIRAB will work with western states to develop future state-level resource mixes that could be used to comply with the Clean Power Plan.<sup>78</sup>

67. WIRAB states that it will foster the testing of a methodology to establish dynamic transfer limits on major transmission paths in the Western Interconnection. WIRAB has encouraged both WECC and Peak Reliability to examine the current method of assigning static transfer limits to major transmission paths based on long-term operating limits. WIRAB states that in 2015, the State Provincial Steering Committee funded work by Quanta Technology to develop a new methodology. The resulting report provided a detailed description of a new Flexible, Adaptable, and Scalable Path Transfer Capability (FASTC) methodology. The report included a detailed description of the analytical methodology and how to implement it in different calculation periods, including real-time. In 2016, WIRAB proposes that its staff will continue to work with WECC and (as necessary) Peak Reliability to explore opportunities to further develop this methodology and an implementation tool for system operators. WIRAB states that its staff will work closely with WECC’s Path Operator Implementation Task Force to align the work on the FASTC methodology with the Path Operator Implementation Task Force’s efforts to develop a new paradigm for setting path limits.<sup>79</sup>

68. WIRAB states that it will examine the impact of new market structures on grid reliability, and seek to encourage WECC to evaluate the major changes to regional power flows that may result from higher penetration levels of renewable energy. The development of the California Independent System Operator’s (CAISO) expanding Energy Imbalance Market (EIM) and the potential development of a regional independent system operator (ISO) in the West represent efforts to expand the market footprint and

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80 Fed. Reg. 64,662 (Oct. 23, 2015) (to be codified at 40 C.F.R. pt. 60) (Clean Power Plan).

<sup>78</sup> NERC Response at 16.

<sup>79</sup> *Id.*

use transmission to balance over-generation from renewable resources. WIRAB states that in 2015, the State Provincial Steering Committee funded work by E3 to describe the anticipated changes in resource mix and transmission path flows across the western United States over the next decade. One conclusion of this work, according to WIRAB, is that major changes to regional power flows may begin to occur at higher penetration levels of renewables, and higher reliance on solar power would exacerbate the trend. The development of the EIM and the potential development of a regional ISO in the West may produce real-time reliability benefits in a future with high penetrations of renewable resources, according to WIRAB. In 2016, WIRAB staff will work to encourage WECC to evaluate the potential for major changes to Western regional power flows and the potential reliability benefits of a Western EIM or a regional ISO. WIRAB states that its staff will work closely with the EIM Body of State Regulators, the CAISO, and WECC to ensure that reliability benefits of the EIM are more fully understood.<sup>80</sup>

### **Commission Determination**

69. The information NERC and WIRAB provided in response to the Commission's deficiency letter aided in our review of WIRAB's proposed 2016 business plan and budget. Based on the information provided in this proceeding, the Commission accepts the WIRAB 2016 budget. However, the Commission is mindful of WIRAB's expanded activities over the last two years and its increased budget. Therefore, the Commission will carefully review the scope of future activities in which WIRAB may engage to ensure that funds collected pursuant to FPA section 215 are spent only on activities authorized by FPA section 215. To the extent any future WIRAB activity goes beyond activities that are eligible for funding pursuant to FPA section 215, WIRAB should seek alternative funding for those activities.

#### **The Commission orders:**

- (A) NERC's 2016 business plan and budget is hereby accepted.
- (B) The Regional Entity 2016 business plans and budgets are hereby accepted.
- (C) The WIRAB 2016 budget is hereby accepted for funding.

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<sup>80</sup> *Id.* at 16-17.

(D) WECC is directed to include additional information in its 2017 business plan and budget, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.