

149 FERC ¶ 61,028
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

North American Electric Reliability Corporation

Docket No. RR14-6-000

ORDER ON 2015 BUSINESS PLANS AND BUDGETS

(Issued October 16, 2014)

1. On August 22, 2014, North American Electric Reliability Corporation (NERC) filed 2015 business plans and budgets for each Regional Entity,¹ the Western Interconnection Regional Advisory Body (WIRAB), Peak Reliability, Inc. (Peak Reliability), and itself (collectively, NERC Application). For the reasons discussed below, the Commission accepts the 2015 business plans and budgets of NERC, the Regional Entities, WIRAB, and Peak Reliability, as well as the associated attachments and updates. The Commission authorizes NERC to issue billing invoices to fund the fiscal year 2015 operations of the Regional Entities, WIRAB, Peak Reliability, and itself.²

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

¹ The eight Regional Entities are Florida Reliability Coordinating Council, Midwest Reliability Organization, Northeast Power Coordinating Council, Inc., ReliabilityFirst Corporation, SERC Reliability Corporation, Southwest Power Pool Regional Entity, Texas Reliability Entity, and Western Electricity Coordinating Council (WECC).

² On October 14, 2014, NERC submitted a “Request to Submit Revisions to the 2015 Budget and Assessments of Peak Reliability, Inc. to Reflect Additional Revenues from British Columbia Hydro and Power Authority,” in Docket No. RR14-6-001. The Commission will address this filing in a subsequent order.

Reliability Standards, subject to Commission review and approval.³ In July 2006, the Commission certified NERC as the ERO.⁴

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.”⁵ 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, (i.e., those functions carried out pursuant to FPA section 215).⁶ Among other things, Order No. 672 sets forth requirements for funding the ERO and the approval of an ERO business plan and budget.⁷ 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 its fiscal year.⁸ 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 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’s 2015 ERO Business Plan and Budget Application

4. The NERC Application contains NERC’s proposed business plan and budget for the year ending December 31, 2015, as well as the proposed business plans and budgets

³ 16 U.S.C. § 824o (2012).

⁴ *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).

⁵ 16 U.S.C. § 824o(c)(2)(B).

⁶ *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).

⁷ Order No. 672, FERC Stats. & Regs. ¶ 31,204 at P 197.

⁸ 18 C.F.R. § 39.4(b) (2014).

of each of the eight Regional Entities, WIRAB, and Peak Reliability for the year ending December 31, 2015.

5. NERC states that the proposed assessment for the total ERO (i.e., NERC, the Regional Entities, and WIRAB) for 2015 is \$163,582,428, which includes \$55,308,375 for NERC funding; \$107,215,895 for Regional Entity funding; and \$1,058,158 for WIRAB funding. NERC states that the portion of statutory activities of NERC, the Regional Entities, and WIRAB allocable to the United States is \$148,273,401. The proposed assessment for Peak Reliability for 2015 is \$41,953,236; the portion of this assessment allocable to the United States is \$41,302,627. 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, WIRAB, and Peak Reliability business plans and budgets, the NERC Application includes various attachments: Discussion of Comments Received During Development of NERC's 2015 Business Plan and Budget (Attachment 13); Calculation of Adjustments for Alberta Electric System Operator, Ontario Independent Electric System Operator, New Brunswick and the Quebec NERC Assessment (Attachment 14); Status Report on NERC's 2014 Goals (Attachment 15); Regional Entity Budget Metrics (Attachment 16); and Metrics on NERC and Regional Entity Administrative (Indirect) Costs Based on the 2014 and 2015 Budgets (Attachment 17).

II. Notice and Responsive Pleadings

7. Notice of NERC's August 22, 2014 filing was published in the *Federal Register*, 79 Fed. Reg. 51,995 (2014), with interventions and protests due on or before September 12, 2014.

8. California Department of Water Resources State Water Project filed a timely motion to intervene. Exelon Corporation (Exelon) filed a timely motion to intervene and comments supporting approval of the NERC Application.

9. On September 17, 2014, WIRAB submitted its advice, recommending that the Commission accept WECC's and Peak Reliability's 2015 business plans and budgets.

III. Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Substantive Issues**1. NERC Business Plan and Budget**

11. NERC states that it prepared its 2015 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 Finance and Audit Committee of the NERC Board of Trustees (NERC Board) and stakeholders. According to NERC, successive versions of the 2015 business plans and budgets were discussed in meetings and conference calls of the Finance and Audit Committee and full NERC Board, in each case with opportunities for stakeholders to make comments.

12. NERC states that its principal goals in 2015 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; (2) physical and cyber security of the Bulk-Power System; (3) continuing to implement NERC's Reliability Assurance Initiative; (4) implementing the revised bulk electric system definition that the Commission has approved; (5) developing and implementing a risk-based registration system; and (6) transforming the NERC Reliability Standards to a steady state.⁹

13. With respect to the Reliability Assurance Initiative, NERC describes that program as "a multiyear effort that involves compliance and enforcement process changes, development of new tools and training materials, and a variety of related efforts."¹⁰ NERC states that it is implementing the Reliability Assurance Initiative "as part of its stated objectives of ensuring [bulk electric system] reliability, improving the efficiency and effectiveness of NERC and Regional Entity compliance and enforcement operations, and reducing unnecessary burdens to registered entities."¹¹ NERC describes the goal of the risk-based registration program as ensuring that "entities are properly registered or de-registered commensurate with risk to the [bulk electric system], are properly scoped, and are responsible for applicable Reliability Standards along with associated compliance obligations."¹²

⁹ NERC Application at 7.

¹⁰ *Id.* at Attachment 2 (NERC's Proposed 2015 Business Plan and Budget) at 9.

¹¹ *Id.*

¹² *Id.* at xiii.

14. NERC states that its 2015 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 Regional Entity Assurance and Oversight, Compliance Analysis, Registration and Certification, and Compliance Enforcement; (3) Reliability Assessment and Performance Analysis; (4) Reliability Risk Management, which is comprised of Situation Awareness and Event Analysis; (5) Critical Infrastructure Protection; (6) Electricity Sector Information Sharing and Analysis Center; and (7) Training, Education, and Operator Certification.¹³ 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 2015. NERC also provides 2014 approved budget data and 2014 year-end projected data for comparison.

15. NERC's proposed total funding for 2015 is \$67,371,264, which is an increase of \$13,635,882 (25.4 percent) over the 2014 budget. A significant portion of this increase is attributable to NERC's participation in the Cyber Risk Information Sharing Program (CRISP). NERC explains that CRISP is "a public-private partnership whose purpose is to facilitate timely information sharing of cyber threat information and to develop situation awareness tools that enhance the electricity sector's ability to identify, prioritize, and coordinate the protection of its critical infrastructure."¹⁴ While the CRISP program will result in a significant increase in NERC's 2015 budgeted outlays, the CRISP program will be primarily funded by entities directly participating in the program (similar to the funding of certain training programs through participant fees) rather than through an increased assessment on all load-serving entities or their designees under FPA section 215.¹⁵ Without CRISP, NERC's budget would increase by \$1,328,097 (2.4 percent) over its 2014 budget. NERC's proposed 2015 net funding requirement is \$55,308,375 (i.e., total budget less funding from other sources), of which \$50,046,840 is allocated to the United States.¹⁶ The net funding requirement allocated to the United States is an increase of \$3,338,141 (7.1 percent) over the 2014 budget proposal. NERC states that its

¹³ NERC Application at 4.

¹⁴ *Id.* at 61.

¹⁵ *Id.* at 7.

¹⁶ *Id.* at 19-21. 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 13.

proposed total United States net funding requirement is equivalent to \$0.000013 per kWh, based on the aggregate Net Energy for Load of the United States in 2013.¹⁷

16. NERC states that the proposed 2015 business plan and budget reflects a provision for working capital and operating reserve funding in the amount of \$1,094,958.¹⁸ Finally, NERC proposes a 2015 staffing level of 192.30 FTEs, which is an increase of 2.8 FTEs over the 2014 budget staffing level.

17. Exelon filed comments supporting the NERC budget, and the funding of CRISP in particular. Exelon states that “CRISP will enhance the electricity sector’s ability to identify, prioritize, and coordinate the protection of industry’s critical infrastructure.”¹⁹

Commission Determination

18. We find that NERC’s 2015 budget is reasonable and the associated costs of NERC’s jurisdictional functions are equitably allocated among end users in the United States.²⁰ We note that while NERC’s 2015 budget will increase by 25.4 percent over 2014, the vast majority of that increase is attributable to the CRISP program, which will be significantly funded in 2015 by participating entities rather than through increased assessments. Accordingly, the Commission accepts NERC’s 2015 business plan and budget.

2. Regional Entity Business Plans and Budgets

19. NERC’s Application includes the 2015 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 resources to carry out its delegated functions.²¹

¹⁷ *Id.* at 21.

¹⁸ *Id.* at Attachment 2 (NERC’s Proposed 2015 Business Plan and Budget) at xxiii.

¹⁹ Exelon Comments at 2.

²⁰ 16 U.S.C. § 824o(c)(1)(B).

²¹ NERC Application at 28.

Commission Determination

20. The Commission finds that each submission reasonably supports the level of expenditures identified in the budgets. We are satisfied that the Regional Entities are focused on adequately staffing and funding all of their program areas to perform the delegated, statutory functions. Accordingly, the Commission accepts the Regional Entity business plans and budgets.

3. WIRAB Budget

21. WIRAB proposes statutory expenses of \$1,013,851 in 2015, which is a \$309,881 increase from its 2014 budget. WIRAB also proposes an incremental adjustment for working capital reserves of \$45,027. To fund its operations in 2015, WIRAB proposes a statutory assessment of \$1,058,158, of which \$898,314 would be allocable to end users in the United States.

22. WIRAB notes that its key activities in 2015 include: (1) rectifying shortcomings in grid reliability practices of balancing authorities, transmission operators and other key registered entities; (2) improving the ability of western reliability organizations to identify, analyze, and recommend actions to address current and looming reliability challenges; (3) encouraging WECC and Peak Reliability to adopt more open and transparent data sharing practices; (4) ensuring that both Peak Reliability and WECC can effectively identify and disseminate best practices to maintain physical and cyber security of the Western Interconnection; and (5) collaborating with the Commission and NERC to identify future grid reliability challenges. WIRAB's budget includes four FTEs for 2015, which is an increase of 1.25 FTEs over 2014.

Commission Determination

23. Based on the information provided in the instant filing, the Commission concludes that WIRAB's 2015 budget is reasonable and, accordingly, the Commission accepts the WIRAB 2015 budget.

4. Peak Reliability Business Plan and Budget

24. NERC's Application includes the 2015 business plan and budget for Peak Reliability. NERC states that it has not substantively reviewed and approved Peak Reliability's Business Plan and Budget in the same manner that NERC reviews the business plans and budgets of the Regional Entities.²²

²² *Id.* at 110.

25. Peak Reliability's proposed budget for 2015, before provision for working capital, is \$38,926,722, which is an increase of \$5,968,073 (18.1 percent) over its 2014 budget. Peak Reliability states that the primary drivers of the increase in its statutory budget and personnel count are the new activities Peak Reliability will undertake to address recommendations from the WECC Board-appointed Reliability Coordination Task Force. NERC states that Peak Reliability will employ 161.67 FTEs, which is an increase of 12.57 FTEs.

26. WIRAB recommends approval of Peak Reliability's proposed 2015 budget, asserting that "Peak's 2015 budget will restore the Reliability Coordination function to sound budgeting practices."²³

Commission Determination

27. Based on the information provided in the instant filing, the Commission concludes that Peak Reliability's 2015 budget is reasonable and, accordingly, the Commission accepts Peak Reliability's 2015 business plan and budget.

The Commission orders:

- (A) NERC's 2015 business plan and budget is hereby accepted.
- (B) The Regional Entity 2015 business plans and budgets are hereby accepted.
- (C) The WIRAB 2015 business plan and budget is hereby accepted for funding.
- (D) The Peak Reliability 2015 business plan and budget is hereby accepted.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

²³ WIRAB Advice at 3.