

MEMORANDUM

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FROM: Allen Mosher, American Public Power Association
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DATE: June 30, 2014

SUBJECT: Comments on the First Draft of the NERC 2015 Business Plan and Budget

The American Public Power Association (APPA), Large Public Power Council (LPPC) and Transmission Access Policy Study Group (TAPS), on behalf of our state, municipal, and transmission dependent utility members, appreciate the opportunity to respond to the May 16, 2014 posting for comment of the first draft of the NERC 2015 Business Plan and Budget.

General Comments

APPA, LPPC and TAPS believe that NERC and its Regional Entities have made significant progress managing their costs, thereby limiting budget increases and the resulting assessments that must be paid by load-serving entities. While actual assessments in some regions are projected to increase significantly, this is in large part a byproduct of the loss of revenues from third parties. While no action is required for the 2015 budget year, we encourage NERC to consider developing a policy and accounting methods to normalize the impact of extraordinary revenue and expense items that exceed some threshold. In particular, penalty revenues received in a particular year may have an outsized impact on NERC and Regional Entity assessments, by reducing assessments in one year, only to have such assessments balloon upward in the next year as those credits disappear and expenses increase. Spreading such revenues over a multi-year period may make more sense for load-serving entity budgeting purposes.

We also commend NERC for the increased clarity of NERC budget materials and the timeliness of the combined presentation of the NERC and Regional Entity budgets. NERC has made significant progress in both respects in recent years.

Risk-Based Registration

APPA, LPPC and TAPS strongly support NERC's Risk-Based Registration Program. We recognize that this initiative has lesser significance for some other industry segments. In marked contrast, we view this initiative as critically important to the effectiveness of NERC as an organization that aligns all of its programs to focus on risks to the bulk electric system. Risk-based registration will free up NERC resources to focus on more material risks to reliability, while reducing regulatory burdens on entities that have limited impacts on the BES. We support NERC's identification of Risk-Based Registration as a key initiative and priority for the ERO Enterprise.

Electricity Sector Information Sharing and Analysis Center

APPA, LPPC and TAPS strongly support expanded funding for and enhanced capabilities for the NERC Electricity Sector Information Sharing and Analysis Center (“ES-ISAC”) and including that funding within NERC’s section 215 Business Plan and Budget and annual assessments to load-serving entities. In particular, we support of NERC’s plans to expand the capabilities of the NERC ES-ISAC through participation in the Cybersecurity Risk Information Sharing Program (“CRISP”), as well as plans to physically separate the ES-ISAC from other NERC personnel and programs in the D.C. office. All electricity sector entities in North America benefit tangibly from NERC’s efforts on this front, even when they do not participate directly in the ES-ISAC, because these efforts serve to increase the resiliency of the entire sector.

A good example of these efforts is NERC’s support for CRISP, an initiative by the U.S. Department of Energy to deploy information sharing devices (ISDs) within the electric utility industry at the cyber interface between each participating utility’s external and internal systems, to analyze IT traffic flows for hostile digital signatures. The CRISP system includes a sophisticated, encryption-based information exchange protocol, the Cyber Federated Model (CFM), which allows the site to specifically determine who receives its data. Along with reports, and other situational-analysis information generated through CRISP, the data shared is a combination of hostile IP addresses, DNS domains, and other indicators. Each of the participating utilities will bear the direct costs of installing the ISDs and will share the ongoing costs incurred by DOE’s contractor, the Battelle Memorial Institute, to analyze the information flows.

At the outset, the NERC ES-ISAC will perform an equally important but different role: taking the results of these analyses and working with the contractor to anonymize the resulting indicators of threats and vulnerabilities, to develop alerts and advisories that can be shared with the electricity sector as a whole. Anonymized information may also be shared with the federal government and the ISACs for other critical infrastructure sectors.

In the near future, the ES-ISAC may also expand its staff and analytical capabilities to perform the company-specific CRISP meta-data analytical activities now being performed by Battelle. As is the case currently, each of the participating utilities will bear the ongoing costs incurred by the ES-ISAC to analyze these information flows.

APPA, LPPC and TAPS also support NERC’s proposal to physically separate the ES-ISAC from other NERC staff in the Washington, D.C. office. The effectiveness of the ES-ISAC depends upon the timely sharing of highly sensitive information between the federal government and industry of actual and potential threats to and vulnerabilities within the nation’s electricity infrastructure. ES-ISAC participants need to have complete confidence that they can share highly sensitive information about potential threats and vulnerabilities to their assets without a second thought that such reporting will be subject to disclosure of company-specific information to any other entity, including other departments within NERC. The physical separation of the ES-ISAC, in conjunction with a robust ES-ISAC Code of Conduct codifying this separation of functions, will provide industry with the assurance it needs to report first and analyze later.

We note that registered entities and electric utilities have a number of formal reporting obligations when events occur on their systems. These include reporting major events on the bulk electric system under NERC reliability standard EOP-004, as well as major losses of facilities and load under DOE Form OE-417. These reports ensure that both NERC and the federal government receive timely reporting of major actual events that affect electric reliability. NERC also continues to support the SAFNR program, which provides situational awareness for FERC, NERC and the regions.

APPA, LPPC and TAPS view NERC's proposed business plan for the ES-ISAC to be fully consistent with NERC's role as the Electric Reliability Organization for North America, charged with ensuring the reliable operation of the bulk-power system. The NERC budget is an equitable approach for funding the ES-ISAC, including these new initiatives. While a small percentage of the ES-ISAC's participants are not on the NERC compliance registry, each such entity is paying its load ratio share of NERC's budget, including the ES-ISAC. If and when NERC or the ES-ISAC undertake analytical projects that do not provide broad benefits to the electricity sector as a whole, these costs can and should be directly assigned to the beneficiaries, with the revenues received credited against NERC's operating expenses.

The NERC Board, stakeholders and regulatory authorities have an obligation to review, comment on and approve the NERC Business Plan and Budget, including the ES-ISAC. At some juncture, NERC may propose to undertake projects within the ES-ISAC that we may oppose, because such projects are inappropriate for NERC, excessively costly, or better performed by other organizations. At this point, we see no indications that NERC has undertaken activities in this area that are inconsistent with its mission, which includes cyber and physical security of the nation's electricity sector infrastructure.

Thank you for the opportunity to provide these comments on the draft 2015 NERC Business Plan and Budget.