NERC
NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

December 19, 2008

VIA OVERNIGHT MAIL

Nancy McNeil
Regulatory Affairs Officer/Clerk
Nova Scotia Utility and Review Board
3rd Floor, Summit Place
1601 Lower Water Street
Halifax, Nova Scotia B3J 3P6

Re: *North American Electric Reliability Corporation*

Dear Ms. McNeil:

The North American Electric Reliability Corporation ("NERC") hereby submits Notice of Filing of the North American Electric Reliability Corporation of its Revised 2009 Business Plan and Budget**.** In addition to the paper copy of this filing, NERC is also submitting one CD containing a copy of the filing. NERC requests, to the extent necessary, a waiver of any applicable filing requirements with respect to the filing of this notice.

Please contact the undersigned if you have any questions.

Respectfully submitted,

___/s/ Rick Sergel_____
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Enclosure

BEFORE THE
NOVA SCOTIA UTILITIES AND REVIEW BOARD
THE PROVINCE OF NOVA SCOTIA

NORTH AMERICAN ELECTRIC	**)**
RELIABILITY CORPORATION	**)**

NOTICE OF FILING OF THE NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION OF ITS REVISED 2009 BUSINESS PLAN AND BUDGET

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December 19, 2008

TABLE OF CONTENTS

ATTACHMENTS:

I. INTRODUCTION

The North American Electric Reliability Corporation ("NERC") respectfully submits this Notice of Filing of its revisions to the 2009 NERC Business Plan and Budget. The revisions were made, in part, to comply with directives contained in an order issued by the Federal Energy Regulatory Commission ("FERC") on October 16, 2008.[1] The 2009 ERO Budget Order conditionally accepted the 2009 Business Plans and Budgets of NERC, as the Electric Reliability Organization ("ERO"), the eight Regional Entities[2], and the Western Interconnection Regional Advisory Body ("WIRAB"). The 2009 ERO Budget Order also specified certain compliance items to be filed by NERC within 60 days (***i.e.***, by December 15, 2008)[3]; certain compliance items to be filed by NERC by April 1, 2009[4]; certain compliance items to be filed by NERC by April 1, 2010[5]; and certain information to be included in the ERO and Regional Entity business plan and budget filings for 2010 and subsequent years.[6]

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[1] *North American Electric Reliability Corporation, Order Conditionally Accepting 2009 Business Plan and Budget of the North American Electric Reliability Corporation and Ordering Compliance Filings*, 125 FERC ¶ 61,056 (2008) ("2009 ERO Budget Order").

[2] The eight Regional Entities are the Florida Reliability Coordinating Council ("FRCC"), Midwest Reliability Organization ("MRO"), Northeast Power Coordinating Council, Inc. ("NPCC"), Reliability*First* Corporation ("Reliability*First*"), SERC Reliability Corporation ("SERC"), Southwest Power Pool Regional Entity ("SPP RE"), Texas Regional Entity, a Division of Electric Reliability Council of Texas ("ERCOT") ("Texas RE"), and Western Electricity Coordinating Council ("WECC").

[3] 2009 ERO Budget Order at PP 25, 28, 34, 37, 47, 53, 54, 55, 57, 59, 60, 62, 67, 72 and 73.

[4] 2009 ERO Budget Order at P 57.

[5] 2009 ERO Budget Order at P 18.

[6] 2009 ERO Budget Order at PP 48, 51 and 71.

At a meeting held on December 12, 2008, the NERC Board of Trustees reviewed the proposed compliance filing and the proposed revised 2009 Budget presented in this filing, and approved them for submission to FERC and the applicable governmental authorities in Canada. NERC filed its compliance filing with FERC on December 15, 2008. That filing addressed the compliance items FERC directed to be filed by December 15, 2008. NERC is also submitting a Notice of Filing of its Revised 2009 Business Plan and Budget with the other applicable governmental authorities in Canada.

II. NOTICES AND COMMUNICATIONS

Notices and communications with respect to this filing may be addressed to:

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III. REVISIONS TO 2009 NERC BUSINESS PLAN AND BUDGET

A. <u>NERC Business Plan and Budget</u>

In PP 22-25, 26-28, 31-34 and 37 of the 2009 ERO Budget Order, FERC directed NERC to give further consideration to the adequacy of the levels of resources and funding included in NERC's 2009 Business Plan and Budget for the Reliability Standards Development Program, the Compliance Monitoring and Enforcement Program ("CMEP"), and the Reliability Assessment and Performance Analysis Program; to provide further explanation and justification for, and reconsider if appropriate, the decision to eliminate the Reliability Readiness Evaluation and Improvement Program; and to submit supplemental budget requests for some or all of these programs for 2009 if appropriate.

NERC's 2009 Business Plan and Budget was developed during the first seven months of 2008 through a robust multi-step process with stakeholder input and support, was approved by the NERC Board of Trustees on July 30, 2008 for submission to FERC, and was filed with FERC on August 22, 2008 and the applicable governmental authorities in Canada on September 17, 2008. The 2009 Business Plan and Budget adequately provided for NERC's resource needs for its statutory programs, based on the information available during the period it was being developed and at the time it was approved for submission. However, based on additional information, experience and developments since that time, NERC now anticipates it will hire additional staff and contract for additional consultant and contractor resources in 2009 to supplement the resources originally called for in the 2009 Business Plan and Budget.[7]

The additional resources consist of 6 new full-time equivalent ("FTE") staff employees, at a total expense (Salary cost and related Personnel Expense, Travel costs and Office Costs) of $808,606, plus $750,000 to obtain additional consultant and contractor resources to provide technical subject matter expertise to supplement the expertise available on NERC's staff. The additional FTE staff and the consultant and contractor resources will be deployed primarily in the Reliability Standards Development Program (increased budget of $500,000 for consultants and contractors) and the CMEP (additional 4.0 FTE staff plus increased budget of $250,000 for contractors). Additionally, one FTE will be added in the Reliability Assessment and Performance Analysis Program to support performance metrics and benchmarking activities; and one FTE will be added to support preparation of timely regulatory filings for the Reliability Standards Development Program and the CMEP.

The total increase requested in NERC's 2009 Budget is $1,558,606. The additional NERC staff and budget raise NERC's overall projected staff at year-end 2009 to 106.5 FTEs and result in a revised budget for statutory functions for 2009 of $36,006,226. The staffing and budget increases in the Reliability Standards Development Program, CMEP and Reliability Assessment and Performance Analysis Program are

[7] The recognition of the need to supplement the original 2009 Budget with additional resources, in response to the opportunity provided by FERC, is in part the result of NERC's evolving experience in performing functions for which it has had responsibility only since mid-2007. As NERC continues to gain experience in performing these functions, and as its statutory programs mature, there should be much less occasion to have to revisit projected resources and budgeted amounts subsequent to NERC Board approval of the Business Plan and Budget.

described below in the responses to PP 22-25, 26-28 and 72 of the 2009 ERO Budget Order.

However, despite the identified proposed increase of $1,558,606 in the revised 2009 Budget, NERC believes the funding and assessments requested in its original 2009 Business Plan and Budget Filing are sufficient to carry out NERC's statutory responsibilities as the ERO. Therefore, NERC is not requesting any increase in its funding, or in its assessments to load-serving entities and designees ("LSEs"), beyond the levels originally requested in the 2009 Business Plan and Budget Filing and conditionally approved by FERC in the 2009 ERO Budget Order. NERC notes that the need to deal with changes in resource requirements within individual programs, due to unforeseen developments or new information, against a fixed amount of funding during the course of a year, is a normal management function. In this case, NERC plans to use its Working Capital Reserve, which was provided for in the original 2009 Business Plan and Budget, to fund the additional budget requirements.

As presented in Table 5 at page 78 of the original 2009 Business Plan and Budget, the Working Capital Reserve is projected to be $1,370,648 at December 31, 2008, and was projected to be $2,500,000 at December 31, 2009 (reflecting provision of $1,129,352 in the 2009 Budget to increase the Working Capital Reserve). With the budget increase described in this compliance filing, the Working Capital Reserve is now projected to be $941,394 at December 31, 2009. The revised projected 2009 Working Capital Reserve is less than the target Working Capital Reserve of $2,500,000 set by the NERC Board as prudent and reasonable to support NERC's operations; however, NERC believes that on a short-term basis (one year), it can operate with the lower Working Capital Reserve level without material risk of experiencing cash flow difficulties that could hamper its operations.[8]

Attachment 1 contains supplemental and revised versions of several tables from the NERC 2009 Business Plan and Budget, reflecting the revisions to the revised staffing and budgets for the Reliability Standards, CMEP and Organization Registration, and Reliability Assessment and Performance Analysis Programs presented in this compliance filing. Included in **Attachment 1** are: (i) supplemental Statements of Activities for the Reliability Standards, CMEP and Organization Registration and Certification, and Reliability Assessment and Performance Analysis Programs, showing for each program the original 2009 budget, the revised 2009 budget, and the differences between the original and revised budgets; (ii) a supplemental Table 1, showing the overall original NERC 2009 Budget and overall revised 2009 Budget and the differences between the overall original and revised budgets; (iii) a supplemental Table 2 (Personnel Analysis), showing the budgeted NERC staffing by program under the original 2009 Budget and the revised 2009 Budget, and the differences in staffing between the original and revised budgets; (iv) a revised Table 4 (2009 NERC Organization Chart), and (v) a revised Table 5 (Reserve Analysis 2008-2009).[9]

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[8] NERC also has a committed $4 million line of credit with a major commercial bank, from which NERC currently has no draw-down. NERC could draw on this line of credit, if necessary, during 2009 to alleviate any cash flow variances or funding shortfalls that might be experienced.

[9] The Statements of Activities for the Reliability Standards, CMEP and Organization Registration, and Reliability Assessment and Performance Analysis Programs appear on, respectively, pages 14, 21 and 45 of the NERC 2009 Business Plan and Budget (Attachment 2 to the 2009 Business Plan and Budget Filing). Tables 1, 2, 4 and 5 appear on, respectively, pages 74, 75, 77 and 78 of the NERC 2009 Business Plan and Budget.

In its original 2009 Business Plan and Budget, NERC included tables allocating its total budgeted Indirect Costs to the statutory programs in proportion to the numbers of FTE staff in each statutory program.[10] Although NERC is now proposing to increase the number of FTE staff in the Reliability Standards, CMEP and Organization Registration, and Reliability Assessment and Performance Analysis Programs, Indirect Costs have not been reallocated among the statutory programs for purposes of the revised 2009 Budget presented in this compliance filing.

1. Reliability Standards Program

NERC believes the resources budgeted in its 2009 Budget for the Reliability Standards Development Program would have been sufficient to accomplish the tasks, goals and planned projects set out for the program when the 2009 Budget was developed.[11] However, based on a number of changes that have occurred and objectives that have taken on greater importance since the 2009 Business Plan and Budget was finalized, NERC now believes an adjustment to the 2009 resources for the Reliability Standards Development Program is necessary.

One of these developments is the increased focus on Critical Infrastructure Protection ("CIP") standards and the need to expedite their development in support of

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[10] *See* tables on pages 8, 16, 23, 28, 38 and 47 of the 2009 Business Plan and Budget (Attachment 2 to the 2009 Business Plan and Budget Filing).

[11] As described earlier, the 2009 NERC Business Plan and Budget was developed during the first seven months of 2008 and was approved by the NERC Board on July 30, 2008 for submission to the Commission. *See* 2009 Business Plan and Budget Filing at 9-11.

FERC Order Nos. 706 and 706-A.[12] In September 2008 this effort was advanced from a 2009 start (as shown in the NERC Reliability Standards Work Plan) into 2008, and targeted for completion in an 18 to 24 month window. To meet this accelerated objective, the standard drafting team for the CIP standards will need to meet on a more accelerated schedule, and will, throughout the development period, require greater facilitation assistance than is normally the case. The number of Standards Development Coordinators on the NERC staff provided for in NERC's original 2009 Business Plan and Budget are needed to support the 35 standards projects (both active and planned for 2009-2010) described in the 2009 Business Plan and Budget and to address any new requests for interpretation of Reliability Standards that are submitted in 2009.[13] Therefore, NERC now believes additional Reliability Standards Program resources are needed in 2009 to support the accelerated schedule for the CIP standards project.

NERC's experience with the standards development process shows that a Standards Development Coordinator can generally manage four ongoing standards projects on a non-accelerated schedule. NERC's 2009 Business Plan and Budget provides for five full-time Standards Development Coordinators. In addition, four managers in the Reliability Standards Program are available to support standards development projects as time permits in their overall workloads. In order to meet the objective to develop and revise CIP standards in accordance with Order No. 706 on an

[12] *Mandatory Reliability Standards for Critical Infrastructure Protection*, Order No. 706, 122 FERC ¶ 61,040 (2008); *Order Denying Rehearing and Granting Clarification*, Order No. 706-A, 123 FERC ¶ 61,174 (2008).

[13] Based on experience in 2007 and 2008, it is reasonable to expect that NERC will receive approximately 8 new requests for interpretation of Reliability Standards during 2009.

accelerated schedule while successfully accomplishing the remaining standards development projects in the Reliability Standards Work Plan for 2009, NERC now proposes to add consultant resources to facilitate the work of standards drafting teams throughout 2009. Using consultants rather than adding full-time staff is appropriate in this case because the accelerated work is for the CIP standards only and the additional resources should no longer be needed when that project is completed. The projected cost of these additional resources is $250,000, based on a projected need for approximately 1,600 manhours at an hourly rate for consultant services of approximately $150 per hour and allowance for Travel costs.

Another development is that NERC now sees a need for greater resources in 2009 to contract with subject matter experts ("SME") with expertise in technical areas that goes beyond the expertise of the SMEs on the NERC staff, to support the development of standards. A review of the standards development projects under way or scheduled to begin in 2009 shows additional contract SME assistance may be required in the following areas of technical expertise:

- Voltage and Reactive Control
- Underfrequency and Undervoltage Load Shedding
- Phasor Measurement Units
- Protection Systems
- Balancing Authority Controls
- Reliability-Based Control
- Frequency Response
- Generation Verification/Performance
- Power System Stabilizers
- Misoperation of Control Systems
- Generator Performance during Frequency and Voltage Excursions

- System Performance
- Generator Real and Reactive Power Capability

Experience since the 2009 Business Plan and Budget was developed indicates additional subject matter expertise will likely be required in these areas during 2009 to support standard drafting team efforts. NERC's current projection of the cost to contract for the necessary SME resources for 2009 is approximately $250,000 higher than the amount included in its 2009 Budget. This estimate is based on the projection that contract subject matter expertise will be needed in at least half the technical areas listed above, in each case for a four to six week engagement.

A third development is that the number of regulatory filings resulting from completed standards development projects (*i.e.*, to request approval of new or revised Reliability Standards) is now expected to increase in 2009 over the numbers reflected in the 2009 Business Plan and Budget, as additional projects are completed and as work progresses to revise Violation Severity Levels in accordance with guidelines articulated in orders issued by FERC in June 2008 and November 2008.[14] These activities exceed the workload projected when the 2009 Business Plan and Budget was developed. Further, initial drafts of regulatory filings for completed standards development projects are currently prepared by the Standards Development Coordinators and the Managers in the Reliability Standards Program in conjunction with the NERC Vice-President of Standards Development. The time spent by staff personnel in preparing regulatory filings represents time that is not available to support standard drafting teams or for overall

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[14] *North American Electric Reliability Corporation, Order on Violation Severity Levels Proposed by the Electric Reliability Organization*, 123 FERC ¶61,248 (June 19, 2008); *North American Electric Reliability Corporation, Order on Rehearing and Clarification and Accepting Compliance Filing*, 125 FERC ¶ 61,212 (November 20, 2008).

management and coordination of standards development projects and of the Reliability Standards Program.[15] Additionally, it is important that regulatory filings be prepared and submitted to the applicable regulators promptly following completion of a standards development project and approval of the new or revised standard by the NERC Board; the approval and, ultimately, implementation of new and revised standards that have been developed through NERC's industry stakeholder process should not be delayed by an inability to prepare and submit regulatory filings in a timely manner. Based on these considerations, NERC now plans to add 0.5 FTE staff in 2009, beyond the staffing reflected in its 2009 Business Plan and Budget, to assist in preparation of timely regulatory filings following completion of standards projects.[16] The budgeted cost for the additional 0.5 FTE is $58,010, consisting of $44,251 of Salary expense, $12,759 of related Personnel expense (Payroll Taxes, Benefits and Retirement Costs), and $1,000 of Office Costs.

In summary, NERC is now proposing to increase its 2009 budget for the Reliability Standards Program by $558,010, consisting of (i) $250,000 for additional

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[15] Preparation of regulatory filings for regulator approval of new and revised Reliability Standards requires significant NERC staff resources in light of the number and volume of these filings. Through December 12, 2008, NERC has submitted 61 filings to regulatory agencies during 2008 as a result of work completed in the Reliability Standards Program. An additional four filings are expected by the end of 2008. These filings are often substantial in volume and can comprise thousands of pages, including the record of development of the standard which must be compiled and organized by NERC staff for inclusion in the regulatory filing.

[16] The CMEP has a similar need for additional resources to assist in preparation of regulatory filings; accordingly, NERC plans to hire an additional employee for this activity whose time will be split between the Reliability Standards Development Program and the CMEP (*i.e.*, an additional 0.5 FTE for each program). Although this additional FTE will support the Reliability Standards Program and the CMEP, he or she may be assigned to the NERC Legal and Regulatory function.

consulting resources to manage and support 2009 Reliability Standards development projects including acceleration of projects relating to CIP standards, (ii) $250,000 to contract for additional SME resources to provide additional technical expertise, beyond that available on the NERC staff, to support standards development projects, and (iii) $58,010 for an additional 0.5 FTE staff to support timely preparation of regulatory filings for regulator approvals of new and revised Reliability Standards resulting from standards development projects.

2. Compliance Monitoring and Enforcement

Based on ongoing analysis since the development and submission of the 2009 Business Plan and Budget, NERC has now identified a need for additional resources in the CMEP. During the fall of 2008 (but prior to receipt of the 2009 ERO Budget Order), NERC had initiated a process to reorganize parts of its CMEP staff into two areas, Compliance Violation Investigations ("CVI") and Compliance Program Audits, for greater efficiency, clarity and effectiveness.[17] However, current workload estimates for these areas show a need for an increase in staffing above that provided for in the 2009 Business Plan and Budget, even with the increased efficiencies expected from the

[17] Before this internal reorganization, the CMEP included a Regional Entity CMEP Oversight group, with 12 FTE staff, and a Compliance Program Interfaces group, with 4 FTE staff. The staffing levels of 12 FTE and 4 FTE, respectively, were reflected in the 2009 Business Plan and Budget as submitted to the Commission. In the post-Budget reorganization, the Regional Entity CMEP Oversight group was renamed the Compliance Violation Investigations group, the Compliance Program Interfaces group was renamed the Compliance Program Audits group, and 5 staff members were transferred from Compliance Violation Investigations to Compliance Program Audits, resulting in 7 FTE staff in Compliance Violation Investigations and 9 FTE staff in Compliance Program Audits. **Attachment 2** shows the staffing of the groups within the NERC CMEP (i) as reflected in the 2009 Business Plan and Budget, (ii) following the post-Budget reorganization, and (iii) as reflected in the revised 2009 Budget presented in this filing.

modified organization. In addition, a small increase in staffing is needed to support timely preparation of regulatory filings for the CMEP. As a result, NERC now believes an additional 4.5 FTE staff positions are needed for the CMEP, bringing the total staffing in the CMEP to 35.5 FTE for 2009. The budgeted cost for the additional 4.5 FTE staff positions is $627,079, consisting of $398,250 of Salary expense, $114,829 of related Personnel Expense (Payroll Taxes, Benefits and Retirement Costs), $105,000 of Travel costs and $9,000 of Office Costs. NERC also now projects the need for an additional $250,000 in contracted SMEs during 2009 to provide technical expertise in support of CVIs.

The needs for additional staffing and contract resources in the CVI and Compliance Program Audit areas, and for additional staffing to support preparation of regulatory filings relating to notices of alleged violations of Reliability Standards, proposed penalties, and Registered Entity mitigation plans, are described in the following paragraphs.

Compliance Violation Investigations

NERC has identified a need to establish a group within the CMEP dedicated to CVIs.[18] Much of the responsibility for conducting CVIs currently falls on the Regional Entities; however, NERC has asserted its authority on CVIs where circumstances have warranted its leadership. The length of time that has been required to complete a CVI, and the resulting backlog, is an area of concern at both NERC and the Regional Entities.

[18] Prior to the internal reorganization, the Regional Entity CMEP Oversight group performed both CVIs and Regional Entity oversight activities. The new Compliance Violation Investigations group will be dedicated solely to CVIs, and the new Compliance Program Audits group (described below) will be dedicated to audits of Regional Entity CMEP activities.

Factors impacting the length of time to complete CVIs include the complexity of the issues investigated and staff inexperience in conducting investigations, as well as the need to attract, hire and train additional investigative staff. Going forward, NERC will take the lead on higher priority CVIs; therefore, the number of CVIs led by NERC will increase.[19] This will enable Regional Entity resources to be leveraged, so that CVIs can be completed more quickly. In addition, NERC leadership of complex, priority CVIs will enable Regional Entity resources that otherwise would have been required to lead the investigations to be redirected to more expeditiously processing alleged violations of Reliability Standards, including currently outstanding alleged violations, and ultimately eliminating any backlog of pending alleged violations to be filed with FERC.

For 2009, the CVI group (under the revised budget) will include a staff of 11 FTE, comprised of one manager and 10 investigators. Based on experience with CVIs in 2008, this level of resources should allow NERC to lead or participate in approximately 20 CVIs. The staffing of 11 FTE is an increase of 4 FTE from the staffing of the Compliance Violation Investigations group provided for in the post-Budget reorganization. NERC will hire 4 new FTE staff for the Compliance Violation Investigations group.

[19] Section 3.4 of the NERC uniform CMEP (Appendix 4C to the NERC Rules of Procedure ("ROP")) provides that NERC may elect to assume leadership of a CVI. If NERC assumes leadership of a CVI, NERC becomes the "Compliance Enforcement Authority" for purposes of the uniform CMEP, and thereby also assumes the responsibility for processing any notices of alleged violation resulting from the CVI. If the Registered Entity requests a due process hearing on any notice(s) of alleged violation and proposed penalty, the hearing would be conducted by the NERC Compliance and Certification Committee pursuant to NERC ROP §409.4, and any appeal would be heard by the NERC Board of Trustees Compliance Committee pursuant to ROP §409.8. However, in light of the anticipated increased frequency of NERC leadership of CVIs, NERC intends to carefully review the uniform CMEP and the applicable sections of the ROP to determine if any revisions or clarifications should be proposed.

In addition, experience during 2008 has shown that CVIs require subject matter expertise to supplement the expertise of NERC CMEP staff. The precise amount and specific areas of additional subject matter expertise required will depend on the particulars of the CVIs initiated and ongoing during 2009. NERC's current projection of the cost to obtain contracted SME resources to support CVIs in 2009 is $250,000 higher than the amount reflected in its original 2009 Business Plan and Budget. This estimate is based on a projection that at least five CVIs during 2009 will require substantial involvement of contracted SMEs.

Compliance Program Audits

NERC is moving the oversight of Regional Entity CMEPs exclusively into a Compliance Program Audits group reporting directly to the NERC CEO. The Compliance Program Audits group will conduct audits of the Regional Entity CMEPs, which are required at least once every three years as specified in the ROP.[20] In addition, the Compliance Program Audits group will audit Regional Entity performance on selected compliance audits of Registered Entities conducted by Regional Entities, and will conduct audits of other field work performed by the Regional Entities as part of their delegated CMEP functions. The consolidated Regional Entity compliance audit schedule for 2009 includes more than 400 compliance audits, some of which will be conducted on-site and the remainder off-site. The NERC Compliance Program Audits group will audit how Regional Entities conduct compliance audits, and also how Regional Entities conduct other compliance processes such as spot checks and self-certifications. These audits of Regional Entity field work will be conducted on a scheduled and unscheduled

[20] NERC ROP §402.1.3. NERC plans to conduct four audits of Regional Entity CMEPs during 2009.

(*i.e.*, with and without notice to the Regional Entity) basis. A primary objective of the Compliance Program Audits group will be to observe and improve the level of consistency among the Regional Entities in the methods used to conduct CMEP processes and the results achieved (*i.e.*, consistency in application of the requirements of Reliability Standards and of the NERC uniform CMEP).

NERC's 2009 Business Plan and Budget as submitted to FERC included a staff of 4 FTE for the Compliance Program Interfaces group. In the post-Budget reorganization, the staffing of the newly-named Compliance Program Audits group was increased to 9 FTE through the transfer of 5 staff members from the former Regional Entity CMEP Oversight group to the Compliance Program Audits group.[21] NERC believes the staffing of 9 FTE is sufficient for the increased responsibilities of the Compliance Program Audits group. Based on initial experience with the dedicated Compliance Program Audits function during 2008, this increased level of resources should allow the Compliance Program Audits group to observe approximately 40 Regional Entity audits in 2009, in addition to conducting the three-year audits of the Regional Entity CMEPs and auditing the processes, work practices and results of the Regional Entity CMEPs on an ongoing basis.

Processing of Alleged Violations, Proposed Penalties and Mitigation Plans

Paragraph 28 of the 2008 ERO Budget Order requires NERC to provide in this compliance filing "a meaningful plan and schedule for processing outstanding alleged violations, mitigation plans, [and] notices of penalty." The Regional Entities have worked with NERC to develop plans and schedules responsive to FERC's directive in P

[21] *See* **Attachment 2**.

28. **Attachment 3** provides (i) a description of the work NERC performs in the normal course of activities to review, track and process alleged violations and mitigation plans for the NERC Board of Trustees Compliance Committee, (ii) a description of each Regional Entity's status, plan and schedule for processing outstanding alleged violations, mitigation plans, and notices of penalty, and (iii) a description of NERC's efforts to prioritize work and provide direction to Regional Entities regarding the processing of outstanding alleged violations, mitigation plans, and notices of penalty. NERC has reviewed the plans and schedules developed by the Regional Entities, as set forth in **Attachment 3**, and believes these plans will enable the Regional Entities to reduce the numbers of outstanding alleged violations, mitigation plans, and notices of penalty within a reasonable time frame, and to process alleged violations, mitigation plans, and notices of penalty in an expeditious manner going forward. NERC will continually monitor the progress made by the Regional Entities and will direct adjustments to their plans as needed to address situations in which their plans and schedules fall behind.

As a result of the efforts to accelerate the processing of outstanding alleged violations, mitigation plans and notices of penalty, there will be an increase in the volume of regulatory filings relating to confirmed violations, proposed penalties and mitigation plans, which in turn will require additional resources to process and file related submissions with regulatory agencies on a timely basis. In recognition of this need, NERC now plans to add 0.5 FTE staff in the CMEP to assist with preparation of documents to be filed with regulatory agencies.[22] The budgeted costs for the additional

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[22] As noted in the response to PP 22-25 of the 2009 ERO Budget Order, NERC will add 1.0 FTE staff to assist in preparing regulatory filings for the Reliability Standards Development Program and the CMEP; this additional staff person will be shared by the

0.5 FTE are included in the budgeted costs for the additional 4.5 FTE for the CMEP provided earlier in this response to PP 26-28.

3. Reliability Readiness Evaluation and Improvement Program

NERC has given further consideration to its decision to terminate the Reliability Readiness Evaluation and Improvement Program ("Readiness Evaluation Program"), in light of FERC's comments and directives in PP 29-34 of the 2009 ERO Budget Order. As detailed later in this response, NERC continues to believe the decision to terminate this program is warranted and appropriate. Therefore, NERC is not proposing to budget any additional resources, or to request any additional funding, for the Readiness Evaluation Program for 2009, beyond the resources and funding needed to phase out the program as described in its 2009 Business Plan and Budget.[23]

PP 29-34 raise issues both with respect to NERC's presentation of the proposed discontinuance of the program in its 2009 Business Plan and Budget Filing (as opposed to, for example, in a separate petition), and with respect to the substantive bases for NERC's determination that the Readiness Evaluation Program should be discontinued. These two sets of issues are discussed below under "Procedural Issues" and "Substantive Issues," respectively.

Procedural Issues

NERC respectfully disagrees that it was inappropriate for NERC to propose elimination of the Readiness Evaluation Program in the context of its annual Business

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two programs. As also noted in the response to PP 22-25, this additional staff member may be assigned to the NERC Legal and Regulatory function.

[23] Attachment 2 to the 2009 Business Plan and Budget Filing, at 23-27.

Plan and Budget filing, that a separate petition for authorization to eliminate this program was required, or that it was inappropriate to propose elimination of the Readiness Evaluation Program without (or prior to) also proposing to amend or eliminate Section 700 of the ROP.[24] NERC recognizes that (as stated in footnote 28 to the 2009 ERO Budget Order), in FERC's Order certifying NERC as the ERO, FERC accepted the Readiness Evaluation Program as an ERO statutory function.[25] NERC believes its annual Business Plan and Budget filing was the appropriate filing in which to propose to FERC that the Readiness Evaluation Program be eliminated.

In its annual Business Plan and Budget filings, NERC presents detailed descriptions of its planned activities for the upcoming year and the resources and funding NERC believes are necessary to support those activities. FERC then has the opportunity to approve or disapprove particular activities, uses of resources, and funding.[26] That NERC states in its 2009 Business Plan and Budget that it plans to eliminate the Readiness Evaluation Program does not make the elimination a *fait accompli*; rather, this plan is presented for approval as part of NERC's 2009 Business Plan and Budget. Additionally, the annual Business Plan and Budget review process allows FERC to question NERC's plans and assumptions and to request further information and explanation of NERC's proposals, as FERC has done in the 2009 ERO Budget Order with respect to several NERC statutory programs.

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[24] *See* PP 32 and 34 and footnote 28 of the 2009 ERO Budget Order.

[25] *North American Electric Reliability Corporation, Order Certifying North American Electric Reliability Corporation as the Electric Reliability Organization and Ordering Compliance Filing*, 116 FERC ¶61,062 (2006), at PP 319-338.

[26] 18 C.F.R. §39.4(b) and (c).

Furthermore, it is in the extensive processes of reviewing NERC's activities and resource requirements, and formulating its plans and objectives, for the coming calendar year, which involve both internal NERC management and staff reviews, and iterative review and input by stakeholders, that the continuing need for all components of NERC's programs and the level of resources appropriate to support them are thoroughly scrutinized, and decisions on programs, activities and uses of resources are made. As described in greater detail under "Substantive Issues," below, the NERC Board's decision that the Readiness Evaluation Program should be discontinued in 2009 was responsive to stakeholder comments that this program had served its original purpose, was redundant to the CMEP, and no longer provided value. The decision resulted from the extensive analysis of the continued value of and need for the program that the Board initiated in response to those comments. In short, the decision to eliminate the Readiness Evaluation Program is a result of NERC's extensive business planning and budgeting process for 2009, and therefore it is most appropriately presented to FERC for review in the 2009 Business Plan and Budget Filing.

NERC also respectfully submits that filing a separate petition, separate and apart from the annual Business Plan and Budget filing, for approval to discontinue the Readiness Evaluation Program, would be problematic and an inferior approach. Filing a separate petition would separate the approval (or rejection) of the proposed elimination of the program from the approval (or disapproval) of the resources needed to operate the program, and could result in funding being budgeted for continuing the program, and included in assessments billed to and collected from LSEs, that ultimately is not needed (because FERC separately approves the petition to discontinue the program).

With respect to Section 700 of the NERC ROP, NERC submits that filing a petition to delete or amend Section 700 (assuming deletion or amendment were necessary[27]) *prior to* submission of the 2009 Business Plan and Budget proposing elimination of the Readiness Evaluation Program, and *prior to* approval of the 2009 Business Plan and Budget by FERC, would have been premature. Until FERC approved the proposed 2009 Business Plan and Budget including the proposed elimination of the Readiness Evaluation Program, NERC would have no basis to petition FERC for approval to delete or amend Section 700. Further, as described at pages 24-27 of the 2009 Business Plan and Budget, during the first quarter of 2009, NERC will complete the remaining previously planned readiness evaluations. Therefore, the applicable provisions in Section 700 of the ROP will need to remain in effect until the remaining readiness evaluations are completed.

However, NERC agrees that Rules of Procedure concerning NERC programs that are no longer in operation should be eliminated. Therefore, assuming FERC, following its review of this compliance filing, confirms its conditional acceptance of NERC's 2009 Business Plan and Budget including the elimination of the Readiness Evaluation Program, NERC will review Section 700 of the ROP and will file a petition for approval of appropriate deletions from or amendments to Section 700. NERC will file this

[27] Section 701 of the ROP describes the intended benefits of the Readiness Evaluation Program. Sections 702 to 711 describe the processes and procedures by which NERC will schedule, select team members for, conduct, report on, and monitor the results of and responses to, reliability readiness evaluations. Section 712 (the last section within Section 700) relates to the formation of Sector Forums (and therefore would need to be retained even if Sections 701 through 711 were deleted due to the elimination of the Readiness Evaluation Program).

petition within 120 days following FERC's order issued in response to this compliance filing.[28]

Substantive Issues

In Attachment 12 to its 2009 Business Plan and Budget Filing, NERC summarized the principal comments that were submitted by interested entities during development of the 2009 Business Plan and Budget on posted drafts and at Finance and Audit Committee ("FAC") meetings where opportunity for public comment was provided. One area of stakeholder comments was that the Readiness Evaluation Program should be studied to determine its ongoing value and relevance to the core mission of NERC. Stakeholders commented that the Readiness Evaluation Program had been one of NERC's strongest responses to the August 2003 Northeast blackout and had served an important purpose in the past; however, in light of the subsequent enactment of §215 of the U.S. Federal Power Act and certification of NERC as the ERO with authority to develop, and monitor and enforce compliance with, mandatory Reliability Standards, the Readiness Evaluation Program no longer served a purpose. Stakeholders also expressed concerns that performance of the Readiness Evaluation Program functions may conflict with performance of NERC's CMEP functions.[29] In response to these stakeholder comments and concerns, as described in Attachment 12, the NERC Board tasked the FAC to evaluate the Readiness Evaluation Program, and the NERC Operating Committee (at the FAC's direction) formed a task force to consider the issue. Based on these

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[28] The 120 days includes a 45-day period for public comment on proposed changes to the ROP before presentation to the NERC Board for approval, as required by Article XI, § 2 of NERC's Bylaws.

[29] Attachment 12 to 2009 Business Plan and Budget Filing, at 2-3.

evaluations and in light of the stakeholder comments and concerns, the NERC Board made the decision to terminate the Readiness Evaluation Program on or about the end of the first quarter of 2009, upon completion of previously planned readiness evaluations.

In PP 29-34 of the 2009 ERO Budget Order, FERC raises questions about the support for the three principal reasons given by NERC for its decision that the Readiness Evaluation Program should be eliminated, namely: (1) while once very useful, the value of the program is diminishing, (2) NERC's primary focus should be on Reliability Standards development and on compliance monitoring and enforcement of standards, and (3) there may be a conflict between NERC's duties to enforce mandatory Reliability Standards through the CMEP and its continued operation of the Readiness Evaluation Program.[30] FERC also stated it believed it was "inappropriate for the ERO to discontinue a program established to fulfill a statutory function with the expectation that a privately funded group that is not accountable under section 215, such as the Transmission Owners and Operators Forum, may conduct some form of reliability readiness evaluations in the future."[31] FERC's concerns about each of these points are addressed below.

1. While the Readiness Evaluation Program was once important, its value has diminished and it has served its original purpose.

Review of the history of the Readiness Evaluation Program supports the conclusion that the Readiness Evaluation Program was one of NERC's strongest responses to the August 2003 Northeast blackout and had served an important purpose in the past, but that in light of enactment of §215 and certification of NERC as the ERO

[30] 2009 ERO Budget Order at P 29. As discussed below and as reported in Attachment 2 to the 2009 Business Plan and Budget Filing, at 23, the genesis of these reasons was industry comments on posted drafts of NERC's 2009 Business Plan and Budget.

[31] 2009 ERO Budget Order at P 32.

with authority to develop, adopt, and monitor and enforce compliance with mandatory Reliability Standards, the Readiness Evaluation Program no longer serves a purpose warranting its continuation.

NERC initiated the Readiness Evaluation Program (originally called the Reliability Readiness Audit Program) in response to evaluations of the causes of the August 14, 2003 Northeast blackout. On February 10, 2004, the NERC Board approved a recommendation of the NERC Steering Group for the August 2003 Blackout Investigation to initiate a Readiness Audit Program to assess the readiness of bulk power system operations in North America. NERC conducted its first Readiness Audit on March 8, 2004. The initial three-year cycle of readiness audits took place in 2004 through 2006.[32]

During the period in which NERC's Reliability Standards were not mandatory and enforceable (***i.e.***, prior to June 2007), the goals of the Reliability Readiness Audit Program were to increase transparency of bulk power system operating practices and to assess the overall preparedness of bulk power system participants to minimize the likelihood of another major blackout. By leveraging publicly posted and balanced reports, NERC could encourage voluntary adoption of best practices, identify industry trends, and proactively encourage adoption of continent-wide reliability practices. The

[32] In their analyses of the causes of the August 2003 Northeast blackout, NERC and the U.S.-Canada Power System Outage Task Force both recognized a need to assess the vulnerability of the bulk power system in North America to similar events. ***See, e.g., Final Report on the August 14, 2003 Blackout in the United States and Canada: Causes and Recommendations,*** U.S.-Canada Power System Outage Task Force, April 5, 2004, at 156 (Recommendation 18), noting that NERC and the regional reliability councils were jointly establishing a program to audit the reliability readiness of all reliability coordinators and control areas within three years and continuing thereafter on a three-year cycle, with 20 audits of high priority areas to be conducted by June 30, 2004.

Reliability Readiness Audit Program was one of many initiatives aimed at increasing the reliability of the bulk power system.

In February 2007, NERC began a second three-year cycle of reliability readiness evaluations. Due to the anticipated approval by FERC of Reliability Standards to be mandatory and enforceable beginning later in 2007, and the associated implementation of the NERC CMEP to monitor and enforce compliance with the standards, the focus of readiness evaluations was shifted from compliance with Reliability Standards to a consultative approach on lessons learned from prior evaluations and suggestions on operational improvements.

Despite the change in focus of the readiness evaluations, with NERC and the Regional Entities now implementing the CMEP to monitor and enforce compliance with mandatory Reliability Standards, stakeholders commented that many of the readiness evaluation functions had become redundant to the new CMEP compliance audits and other processes, and that most of the benefits of the readiness program had been realized through the initial series of evaluations conducted during the first three-year cycle.[33] Moreover, the initial three-year cycle of Readiness Audits had captured the "low-hanging fruit" of reliability improvements by bulk power system participants; continued dedication of resources through further cycles of readiness evaluations would realize diminishing returns in terms of additional reliability improvements to be identified. The NERC Operating Committee report to the FAC concluded, "Although the readiness

[33] Commenters stated during the budget development process that readiness reviews had become redundant to compliance audits, that the readiness program no longer added significant value and should be discontinued, and that the readiness evaluations should be eliminated or substantially reduced because their original purpose had been accomplished and NERC staff resources could be better used in other activities.

evaluation program filled an important role in enhancing the industry's reliability following the August 14, 2003 blackout, the Operating Committee believes that many of [its] functions have become redundant within the new ERO and compliance environment."

NERC acknowledges that, as recited in P 31 of the 2009 ERO Budget Order, nearly all entities undergoing readiness evaluations between March 2007 and April 2008 reported that on-site evaluations were beneficial to their organizations, and that readiness evaluations have resulted in 3,200 recommendations that have been or currently are being implemented by the subjects of the evaluations.[34] However, these results are historic in nature, whereas NERC's determination that the Readiness Evaluation Program should be phased out and eliminated in 2009 was forward-looking, and recognized that continued dedication of resources to readiness evaluations into the future would produce diminishing returns in terms of identifying additional, impactful reliability improvements in evaluated entities' operations. Additionally, moving into the second half of 2007, 2008 and thereafter, Registered Entities began to be subject to the compliance processes of the mandatory CMEP, including spot checks, periodic data submittals and compliance audits, which give them insights into their reliability practices that were formerly provided by readiness audits and evaluations.

2. NERC's primary focus should be on Reliability Standards development and on compliance monitoring and enforcement.

NERC does not understand FERC to be questioning that NERC's primary focus should be on the core functions of Reliability Standards development and compliance

[34] These observations were originally reported at pages 24-25 of Attachment 2 to the 2009 Business Plan and Budget Filing.

monitoring and enforcement – indeed, the 2009 ERO Budget Order questions whether NERC has budgeted sufficient resources to carry out these programs in 2009. However, the need to focus the attention and resources of NERC, the Regional Entities and Registered Entities on Reliability Standards development and on compliance with and enforcement of standards provided further grounds to discontinue the Readiness Evaluation Program. As NERC moved into the second cycle of readiness evaluations, it observed the industry's attention and resources were now focused on preparing for, implementing and demonstrating compliance with the mandatory Reliability Standards, and fewer industry resources were available to address the results of readiness evaluations. This situation was, at least in part, a result of the industry viewing the Readiness Evaluation Program as voluntary whereas compliance with the Reliability Standards is mandatory and noncompliance with standards carries the risk of substantial monetary penalties.

Commenters during the 2009 Business Plan and Budget development emphasized that NERC's resource and budget priorities should be focused on its core responsibilities of Reliability Standards development and compliance monitoring and enforcement. Moreover, stakeholders also expressed concerns over the overall substantial increase in NERC's proposed 2009 Budget over the 2008 Budget.[35] Version 1.1 of the proposed 2009 Business Plan and Budget reflected a 46% increase over 2008. The final 2009 Business Plan and Budget submitted to FERC represented an increase of 29.8% over the 2008 Budget.[36] Proposed Regional Entity budgets for 2009, in the aggregate, also

[35] *See* Attachment 12 to the 2009 Business Plan and Budget Filing at 2.

[36] Attachment 12 to the 2009 Business Plan and Budget Filing at 2.

represented substantial increases over the 2008 Regional Entity budgets. These NERC and Regional Entity budget increases translate, of course, into higher assessments to LSEs.

As discussed in the 2009 Business Plan and Budget Filing and elsewhere in this compliance filing, significant portions of the increases in NERC and Regional Entity budgets for 2009 are for significantly increased resources for their CMEPs. In general, the increased budgets for increased CMEP resources did not draw stakeholder concerns or objections. However, faced with substantial NERC and Regional Entity budget (and therefore assessment) increases, it was quite appropriate for stakeholders to question the continued, relative value of other components of NERC and Regional Entity operations, for stakeholders to urge that the largest part of NERC's resources be focused on its core functions of standards development and compliance monitoring and enforcement, and for NERC and the Regional Entities to seriously evaluate whether continued expenditures of resources on the Readiness Evaluation Program were justified and provided commensurate value.

3. Inconsistency between NERC's duties to enforce mandatory Reliability Standards through the CMEP and its continued operation of the Readiness Evaluation Program.

The 2009 ERO Budget Order states that NERC's statutory responsibilities to develop and enforce mandatory Reliability Standards "do not necessarily conflict with" the Readiness Evaluation Program, and expresses doubt that continued performance of readiness evaluations poses a conflict with NERC's enforcement role.[37] Perhaps "conflict" was a poor choice of words by NERC, but the tensions presented by continuing

[37] 2009 ERO Budget Order at PP 32-33.

operation of the Readiness Evaluation Program by NERC and Regional Entities while they focus on their core statutory responsibilities of developing, and monitoring and enforcing compliance with, mandatory reliability standards, include the following:

- As discussed elsewhere, NERC and the Regional Entities have encountered difficulties in attracting sufficient qualified, experienced engineers, auditors and other technical personnel to staff their CMEPs to desired levels. Further, NERC and the Regional Entities can only find, hire, train and manage a finite number of new employees in a year. Continued maintenance of the Readiness Evaluation Program creates additional competition for personnel and for management oversight and attention that are needed for NERC's and the Regional Entities' highest priority activities, namely developing, monitoring and enforcing compliance with standards.

- With Reliability Standards now mandatory and enforceable, if Readiness Evaluation Program personnel discover evidence of a noncompliance in the course of performing a readiness evaluation of a Registered Entity, they must report this finding to the CMEP for further investigation and processing as a possible alleged violation. Thus, a "conflict" arises because in the course of evaluating the Registered Entity's operations with the objective of providing helpful advice and identifying improvements (in what used to be a "no risks – no penalties" context), the readiness evaluators must also identify and report evidence of noncompliances as though they were conducting a compliance audit.

- Registered Entities are aware of the possibility described in the preceding point, and therefore, NERC is observing, they have begun to prepare for readiness evaluations as though they were compliance audits. Given that noncompliances (whether identified through compliance audits or readiness evaluations) could, beginning in June 2007, result in substantial financial penalties for the Registered Entity, the free-flowing exchange of information and ideas that occurred during the initial cycle of the readiness audits began to diminish significantly during the second cycle of readiness evaluations.

- Identifying evidence of noncompliances is not the primary objective or purpose of readiness evaluations, and the Readiness Evaluation Program staff has not been trained in the same manner as NERC and Regional Entity compliance auditors and are not prepared to interpret and apply the standards on a consistent basis as are the trained CMEP staff. In fact, Readiness Evaluation teams are often comprised substantially of industry volunteers, who have not been trained on the Reliability Standards and their application as have NERC and Regional Entity staff. Thus, another

> "conflict" is created because while a Registered Entity may perceive a successful Readiness Evaluation as a determination that the Registered Entity is operating in compliance with applicable Reliability Standards, that is not in fact the case.

Overall, with an active CMEP that encompasses several regularly-implemented processes for evaluating a Registered Entity's compliance with applicable reliability Standards – including annual or semi-annual self-certifications, spot checks, periodic data submittals and periodic compliance audits – and with readiness evaluations to at least some degree transforming into compliance audits, the NERC Board concluded there was insufficient continuing, separate value added by readiness evaluations to continue to devote resources to, and assess bulk power system participants for the costs of, the Readiness Evaluation Program.[38]

4. NERC has not delegated the Readiness Evaluation Program to the Transmission Owners and Operators Forum or to any other group.

Paragraph 32 of the 2009 ERO Budget Order states that NERC decided to discontinue the Readiness Evaluation Program with the "expectation" that the Transmission Owners and Operators Forum may conduct some form of reliability readiness evaluations in the future. To be clear, NERC has not delegated the performance of readiness evaluations or the continuation of the Readiness Evaluation Program to the Transmission Owners and Operators Forum or to any other group, and has

[38] It is also the observation of NERC and the Regional Entities that many Registered Entities are engaging consulting firms to assist them in the development and implementation of Reliability Standards compliance programs, to review their operations, procedures and documentation for compliance with applicable Reliability Standards, and to provide specific assistance in preparing for compliance audits and other CMEP audits. The use of consultants in this manner by Registered Entities provides them with a third party's perspective on their compliance with Reliability Standards and their ability to demonstrate compliance.

not determined to discontinue the Program with the expectation that it will be resumed by any third party at any foreseeable point in the future. Rather, the NERC Board determined the Readiness Evaluation Program should be discontinued for the reasons already discussed in this response.

5. Although NERC has determined that the Readiness Evaluation Program should be discontinued, NERC continues to devote resources to high-value projects for reliability improvements.

While NERC has determined that the expenditure of resources on the Readiness Evaluation Program is no longer serving a useful purpose that justifies these expenditures and the associated assessments to LSEs, and that the program should be discontinued, NERC's 2009 Business Plan and Budget provides for resources to apply to high value activities for reliability enhancement. The following initiatives are now being implemented to enhance the reliability performance of the bulk power system and of its owners, operators and users:

- Protection System Improvements Initiative (Event Analysis) - The purpose of this initiative is to improve reliability by reducing the incidents of system protection as causal or contributory to disturbances and other system events. This initiative began with the relay loadability recommendations from the analyses of the 2003 Northeast blackout. Activities in this initiative include relay loadability, protection system redundancy, transmission protection coordination, and transmission protection coordination with generation protection and generation control systems.
- System Modeling Improvement Initiative (Events Analysis) - The purpose of this initiative is to promote technical excellence in modeling the bulk power system in order to better predict its behavior. It is tied to the 1996 Western Systems Coordinating Council (now WECC) recommendations on model validation, as well as the NERC recommendations on modeling related to the 2003 Northeast blackout. Activities in this initiative include promoting improvements in quality of power flow and dynamic models, improved understanding of dynamic system behavior and inter-area oscillations, and improved modeling techniques.

- Synchro Phasor Initiative (Situation Awareness/Event Analysis) - NERC has taken a leadership role in the North American Synchro Phasor Initiative to facilitate the rapid deployment of phasor technology.[39] The phasor technology will improve the control of the bulk power system and will allow for more optimal asset utilization of the infrastructure. The phasor technology will also improve wide-area situational awareness for the monitoring of the bulk power system. Another benefit of the phasor technology is in the area of system forensics after the bulk power system has experienced a disturbance.
- Performance Metrics (Metrics and Benchmarking/Standards) - NERC continues to establish more meaningful and tangible performance metrics that define how well the Reliability Standards are accomplishing the goal of ensuring an adequate level of reliability.[40] The continuing focus on development and tracking of performance metrics will permit the benchmarking of overall reliability performance and provide a more meaningful objective baseline against which existing Reliability Standards can be judged and future Reliability Standards can be developed.

In addition, through the implementation of NERC's three-year Reliability Standards Development Plan, the development of new and revised Reliability Standards will improve the reliability of the bulk power system by addressing known gaps in the current set of standards, improving the overall quality of the standards so that Registered Entities are clear as to obligations and the consequences for non-performance, and condensing the set of Reliability Standards to eliminate redundancies and to focus them on key reliability objectives.

4. <u>Reliability Assessment and Performance Analysis Program</u>

NERC's independent ability to validate the data it gathers from industry in the preparation of its reliability assessment reports is not a function of the amount of

[39] *See* 2009 Business Plan and Budget at 51.

[40] *See* 2009 Business Plan and Budget at 42, and the response to P 72 of the 2009 ERO Budget Order, below, for discussion of NERC's performance metrics and reliability benchmarking activities and objectives for 2009.

resources employed, but rather is a function of the processes NERC and the Regional Entities use to perform their respective portions of the reliability assessments. As stated in the Introduction section of each of NERC's reliability assessment reports, NERC prepares its reliability assessments with detailed data, information, and regional assessments from the Regional Entities as well as active support from the NERC Reliability Assessment Subcommittee ("RAS") under the direction of the NERC Planning Committee, with additional review from the NERC Operating Committee. This data and information is first analyzed, vetted and attested to by the Regional Entities as part of their assessment process, which follows a detailed set of assessment criteria established by NERC. After the data and information are received, it undergoes further review by NERC staff and the RAS to ensure accuracy and consistency. The data, information and regional assessment submitted by each Regional Entity are periodically updated throughout the process of preparing the reliability assessment report, in order to ensure this information is as current as possible.

However, in response to P 37 of the 2009 ERO Budget Order, during 2009, NERC will review its internal data collection and validation processes to fortify its current data analysis system by designing, creating, testing and putting in place additional independent, automated data checking systems to accommodate the increasing amount of data NERC collects for its reliability assessments. These enhancements will not require additional manpower or the incurrence of other costs, as they will be developed internally by existing staff. Further, the NERC RAS has recently added one field representative from each Regional Entity to supplement its membership of industry SMEs and to further assist NERC in carrying out peer review and data validation.

The automated data checks will complement the rigorous peer review performed by NERC staff, Regional Entity staff and industry SMEs as described above. The automated data checks will also expedite the peer reviews and increase the productivity of NERC staff and industry SMEs who are tasked with developing comprehensive, independent assessments of the reliability of the Bulk-Power System.

For these reasons, NERC does not believe any additional funding of, or staff personnel in, the Reliability Assessment and Performance Analysis Program are needed in 2009 for data and information validation, beyond the resources provided for in the approved 2009 Business Plan and Budget for this program. However, NERC has identified the need to add an additional staff member in the Reliability Assessment and Performance Analysis Program to support NERC's reliability dashboard, performance metrics and reliability benchmarking activities.

B. Regional Entity Metrics

The Regional Entities, in consultation with NERC, have developed the following definitions for "small," "medium" and "large" compliance audits, based on the number of requirements of Reliability Standards that are subject to audit in a compliance audit of a Registered Entity:

Small	25 or fewer requirements
Medium	26 to 75 requirements
Large	More than 75 requirements

For purposes of developing metrics, these three categories of compliance audits can be further segregated into on-site audits (take place at the Registered Entity's site) and off-site audits (take place at a location other than the Registered Entity's site, typically the Regional Entity office).

Attachment 4 contains a table showing the number of on-site and off-site audits in each size category projected to be performed in 2009 by each Regional Entity.[41] **Attachment 4** also contains a table showing the cost per audit by size and site category as projected by each Regional Entity for 2009. The total Regional Entity cost to perform a compliance audit includes the costs to prepare for the audit, to perform the audit (whether on-site or off-site), and to report the results of the audit. Costs incurred in issuing and processing notices of alleged violations and proposed penalties resulting from the compliance audit are not included in the cost to perform the audit. The costs per audit shown in the table in **Attachment 4** are based on the Regional Entities' projections of the manhours required to complete the preparation, performance and reporting functions for each category of compliance audit in 2009. The costs include the direct Salary expense and related Personnel Expense (Payroll Taxes, Benefits and Retirement Costs) for the manhours of the Regional Entity personnel involved in preparation, performance and reporting for the audit and/or the costs for consultant/contractor resources used by the

[41] The numbers of on-site and off-site compliance audits projected for 2009 by each Regional Entity shown in **Attachment 4** are, in the case of most of the Regional Entities, different than the numbers of 2009 audits they projected in their 2009 Business Plans and Budgets. The projections provided in the 2009 Business Plans and Budgets were developed during the first six months of 2008, while the projected numbers of audits shown in **Attachment 4** reflect subsequent revisions to audit plans and schedules, including submission of the Regional Entities' final 2009 CMEP Implementation Plans to NERC in accordance with §4.2 of the NERC uniform CMEP. The differences also reflect the fact that entities are added to and removed from the Compliance Registry on an ongoing basis, and that planned audits may be changed from "on-site" to "off-site" or vice versa. Finally, one Regional Entity changed its method of counting audits from a functional entity basis to a corporate basis (***i.e.***, audits of multiple functional entities within a corporation are counted as one audit).

Regional Entity to perform the audit, but do not include any allocation of Regional Entity Indirect Costs.

While the differences in cost per audit among the Regional Entities for the various audit size and site categories, as reported in the table in **Attachment 4**, require further analysis, NERC and the Regional Entities note the following factors, among others, that can contribute to such differences:

- Some Regional Entities are using consultants or contractors on their audit teams, which typically entail a higher cost per hour than the use of Regional Entity employees.[42]
- As Regional Entities are conducting the initial round of compliance audits during the 2007-2009 period, there are differences in training and experience of audit team members. Audit teams with more experienced auditors can be expected to perform compliance audits more efficiently, and therefore in less time, than will less-experienced auditors, all other factors equal.
- With Registered Entities undergoing the initial round of compliance audits relating to mandatory Reliability Standards during the 2007-2009 period, there is a great variation in the degree of Registered Entity preparation for audits (*e.g.*, in organization and accessibility of documents). The degree of Registered Entity preparation for an audit can impact the amount of time the audit team must spend performing the audit, and, therefore, the Regional Entity's costs.
- The relative risk to the reliability of the bulk power system of the Registered Entity being audited may affect the time required for, and therefore the cost of, the audit. More time spent in performing the audit may be warranted for audits of Registered Entities perceived as presenting greater risk to the bulk power system, based on, for example, the particular functions for which the entity is registered, or its past violation history.

In addition to these factors, differences in cost per audit may reflect general differences in the market levels of salaries in the different areas in which the various Regional Entities operate.

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[42] However, the overall, annual cost to a Regional Entity of retaining a contractor or consultant for a specific, targeted assignment such as participating in compliance audits may be less than the cost of maintaining a FTE employee on staff for the year.

NERC and the Regional Entities believe that as more compliance audits are conducted and more experience with audits is gained by both Regional Entities and Registered Entities, the impacts of some of the factors listed above on differences in costs per audit among Regional Entities will diminish. Regional Entity and NERC auditors will gain greater experience in performing these audits over time, and Registered Entity preparations for audits will become more consistent, particularly as Registered Entities enter the second round of compliance audits.

C. Regional Entity Business Plans and Budgets

1. General and Administrative Cost Increases

a. NPCC

The following text discusses the reasons for the increases in NPCC's budgeted costs from 2008 to 2009 in the General and Administrative Cost categories of Personnel Expenses, Meeting Expenses, Contracts, Office Rent, Computer Purchase & Maintenance, Furniture & Equipment and Miscellaneous.[43] As explained below, the increases in NPCC's 2009 Budget for Office Rent, Computer Purchase & Maintenance, and Furniture & Equipment are largely driven by the relocation of NPCC's office in New York City due to expiration of its current lease. In the other categories of General and Administrative Expense (Consultants, Office Costs, Professional Services and Depreciation), NPCC's budgeted amounts for 2009 are less than the 2008 budgeted amounts.

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[43] The increases from the 2008 Budget to the 2009 Budget cited in the following discussion are based on the table on page 49 of the NPCC 2009 Business Plan and Budget, Attachment 5 to the 2009 Business Plan and Budget Filing.

Personnel Expenses. NPCC's 2009 Budget shows an increase of $227,816 (30.3%) over the 2008 Budget for Personnel Expenses. For the 2009 Budget, NPCC accumulated all Regional Entity Division budgeted amounts for employment agency fees, temporary office services, education reimbursement, worker's compensation insurance, and pension and savings administration, under the General and Administrative budget. Removal of these items from the 2008 and 2009 NPCC General and Administrative Budgets would reduce the percentage increase in Personnel Expenses to 25%.

With respect to Salary expense, NPCC's 2009 Budget in General and Administrative incorporates past years' NPCC Board actions with regard to salary adjustments in recognition of increased positional demands and more reflective of market rates that were not included in earlier budgets, but are integrated in the 2009 Budget. (*See* additional discussion in the NPCC response to P 60, below.) In addition, until 2007, NPCC was on a modified cash basis of accounting and carried no accruals for pension liabilities. Mandates under the Pension Protection Act of 2006 include substantial changes to the valuation methodology for pension funding for 2008, including use of 2008 mortality tables and lower interest rates. NPCC adopted Statement of Financial Accounting Standards No. 158, "Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans," ("SFAS 158") on December 31, 2007, subsequent to development and submission of NPCC's 2008 Budget. SFAS 158 requires companies to report the funded status (defined as the difference between the fair value of plan assets and the plan's benefit obligations) of their defined benefit and other postretirement plans. The net effect of this adoption is a $1,622,785 decrease to unrestricted net assets. NPCC's total accrued pension liability of $1,825,163 has an expected amortization period of 9.6 years; the annual amortization will be included in the 2009 and future budgets as part of the annual pension funding requirement. The factors just described were primary drivers in the increase in budgeted Retirement Costs in the NPCC General and Administrative Budget from 2008 to 2009 of $71,732 (155%).

Meeting Expenses. NPCC's 2009 Budget shows an increase of $59,477 (24%) over the 2008 Budget for Meeting Expenses. This increase is driven entirely by Travel expenses, which are projected to increase by $79,892 (42%) over the 2008 Budget due to increases in airfare costs, mileage reimbursement rates, and hotel rates. The higher levels of costs for these items are reflected in the increased 2009 Budget for Meeting Expenses, particularly in the budgeted expense for Travel. (NPCC budgets all Travel expenses for its Indirect functions under General and Administrative.) NPCC has, however, taken steps in connection with its 2009 Budget to reduce Meeting Expenses where possible, including by conducting more meetings by teleconference in order to limit the impacts of the escalating costs of travel. As a result of this initiative, the 2009 Budget for Meetings is lower than the 2008 Budget by $9,492 (20%).

Contracts. NPCC's 2009 Budget shows an increase of $69,607 (125%) over the 2008 Budget for Contracts. For the 2009 Budget, NPCC reclassified "Consultants" as a one-time type of expenditure. This resulted in some expenses formerly budgeted under Consultants being budgeted for 2009 under Contracts. While the budget for Contracts increased by 125% from 2008 to 2009, the budget for Consultants decreased by 77% ($69,600). Overall, the combined 2009 Budget for Consultants and Contracts is virtually identical to the combined 2008 Budget for these items ($145,807 versus $145,800).

Office Rent. NPCC's 2009 Budget shows an increase of $257,683 (87%) over the 2008 Budget for Office Rent. The increase in Office Rent is due to the need to relocate NPCC's offices to new space, scheduled for May 2009, for which NPCC will be paying closer to market rental rates and also increasing its office square footage. NPCC's rent at its existing office (for which the lease is expiring) is approximately 35% of market rate. The cost impacts of the expiration of NPCC's existing lease and the relocation of its offices, including the alternatives considered by the NPCC Board, were discussed in detail at pages 6-7 of NPCC's 2009 Business Plan and Budget.

Computer Purchase & Maintenance. NPCC's 2009 Budget shows an increase of $269,915 (2,999%) over the 2008 Budget for Computer Purchase & Maintenance. The 2008 Budget for Computer Purchase & Maintenance in General and Administrative was only $9,000. NPCC budgeted virtually no costs to purchase new computers for 2008 in recognition of the expected office move in 2009. The increase in the 2009 Budget for this item is due to computer and equipment purchases and leases associated with the relocation of NPCC's offices in 2009.

Furniture & Equipment. NPCC's 2009 Budget shows an increase of $784,015 (17,423%) over the 2008 Budget for Furniture & Equipment. The 2008 Budget for Furniture & Equipment in General and Administrative was only $4,500. NPCC budgeted virtually no costs to purchase new furniture and equipment for 2008 in recognition of the expected office move in 2009. The increase in this component is due to leasehold improvements (office space buildout) and furniture purchases associated with the relocation of NPCC's offices in 2009. However, with the commercial office market in New York softening considerably since the 2009 Budget was submitted, NPCC expects these costs may be less than projected.

Miscellaneous. The 2009 Budget for Miscellaneous shows an increase of $27,300 over the 2008 Budget (no expenses were budgeted in Miscellaneous for General and Administrative in 2008). These costs are also associated with the relocation of NPCC's offices in 2009.

b. Reliability*First*

Although P 53 of the 2009 ERO Budget Order directs that further explanation be provided for the increase in Reliability*First*'s budgeted General and Administrative expenses from 2008 to 2009, Reliability*First*'s 2009 Budget for General and Administrative has only increased by 9.5% ($163,678) over its 2008 Budget.[44] Personnel Expenses are budgeted to increase by $28,068 (5.4%), with budgeted Salary expense and budgeted Retirement Costs representing the largest components of the increase in Personnel Expense. The principal drivers of the increase in budgeted Personnel Expense are average salary increases of 5% over 2008 levels, and a 16% increase in health insurance costs. Reliability*First*'s 2009 Budget for Meeting Expenses in General and Administrative is slightly lower than its 2008 Budget for this item. The 2009 Budget for Total Operating Expenses in General and Administrative is $150,930 (14.0%) higher than the 2008 Budget. (However, the 2009 Budget for Total Operating Expenses is almost identical to the anticipated 2008 actual expenditures.) The budgeted increase in Total Operating Expenses reflects increases in the budgets for Office Rent and Professional

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[44] This increase amount, and the other increases cited in this discussion, are based on the table at page 46 of Reliability*First*'s 2009 Business Plan and Budget, Attachment 6 to the 2009 Business Plan and Budget Filing.

Services, partially offset by decreases in the budgets for Office Costs and Furniture & Equipment. The principal cause of the increase in the budget for Office Rent is the cost of utilities. The 2008 Budget was prepared before Reliability*First* moved to its new office location, and therefore the 2008 budgeted cost for utilities was not based on any experience with usage at the new location. The increase in the budgeted expense for Professional Services is based on the need to provide for increased legal support for corporate activities and for regulatory proceedings including Compliance Registry registration appeals, preparing positions and comments on FERC orders and notices of proposed rulemaking and on proposed NERC rules and rules changes, and preparation of other regulatory filings.

In addition, although not budgeted in General and Administrative, Reliability*First* has budgeted increases in Information Technology ("IT") for Office Costs ($175,990 (157%)) and Computer Purchase & Maintenance ($223,410 (70%)).[45] The principal cause of the increase in budgeted costs for Office Costs is installation of a larger Internet connection to support higher demand for web meetings, tele-workers and the compliance website. The principal cause of the increase in budgeted costs for Computer Purchase & Maintenance is maintenance agreements for the new compliance software installed during 2008.

c. SPP Regional Entity

The following discussion analyzes the increases in SPP RE's overall Indirect Costs from its 2008 Budget to its 2009 Budget. Of SPP RE's total statutory budget for

[45] *See* the table on page 53 of the Reliability*First* 2009 Business Plan and Budget (Attachment 6 to the 2009 Business Plan and Budget Filing).

Indirect Costs for 2009 of $1,162,919, 85% is budgeted in the General and Administrative category.[46]

SPP RE's 2009 Budget for statutory Indirect Costs is $1,162,919, which is an increase of $494,991 over the stated 2008 Budget for statutory Indirect Costs of $667,928. However, SPP RE has determined that the indirect/overhead cost allocation represented in the "Other Non-Operating Expenses" component of total statutory Indirect Costs in the 2008 Budget was incorrectly calculated, and should have been $310,200 rather than $103,419 as originally presented (*i.e.*, $206,781 higher).[47] Therefore, the 2008 Budget amount for total statutory Indirect Costs should have been $874,709 (not $667,928), and with that correction, the increase in statutory Indirect Costs in the SPP RE 2009 Budget is $288,210, or 32.9%. This increase is due to the additional Personnel Expenses, allocated overhead costs and Meeting Expenses associated with one additional FTE in the 2009 Budget. Budgeted Personnel Expenses (Salary, Payroll Taxes, Benefits and Retirement Costs) in the General and Administrative budget are increased by $103,710; budgeted Other Non-Operating Expenses (allocated overheads and shared services costs) are increased by $164,490 over the corrected 2008 Budget amount[48]; and

[46] The remaining 15% of the 2009 SPP RE Budget for Indirect Costs is comprised of $25,000 for Meeting Expenses budgeted under Committee and Member Forums (a $5,000 increase from the 2008 Budget) and $150,000 budgeted for Professional Services under Legal and Regulatory (no change from the 2008 Budget).

[47] The cause and impacts of this incorrect calculation will be detailed in NERC's April 1, 2009 filing reconciling differences between the 2008 Budgets and 2008 actual costs of NERC and the Regional Entities.

[48] The increase in Other Non-Operating Expenses reflects both the increase of 1.0 FTE in the 2009 Budget and the lower hourly rate for allocated overheads in the 2009 Budget ($101) than in the 2008 Budget ($110).

Meeting Expenses are increased by $20,000 attributed to travel and meetings costs for the added employee.

d. Texas Regional Entity

Texas Regional Entity's General and Administrative expense budget for 2009 is $2,923,855. This represents a 142% increase ($1,717,216) over the 2008 approved Budget of $1,206,639 for General and Administrative.[49] The increases in the total General and Administrative budget are primarily attributed to several key items for 2009, which are described in the following paragraphs.

Texas RE planned a one-time non-operating expense of $855,000 for a cash reserve that will be used as working capital in 2009. This amount is offset by $71,000 in contingency reserves budgeted for the General and Administrative function in 2008. This represents an increase of $784,000 year-over-year. This cash reserve is to ensure that the Regional Entity is sufficiently capitalized and funded. It is not anticipated at this time that Texas RE will need to use this funding for operating expenses.

Personnel Expenses for 2009 were budgeted at $997,596, versus the 2008 Budget of $660,209. This represents a $337,387 increase over the stated 2008 Budget ($263,917 of this amount is increased Salary expense and $73,470 is increased Payroll Taxes, Benefits and Retirement Costs). Texas RE budgeted Personnel Expenses for <u>all</u> Indirect functions (including General and Administrative, Legal and Regulatory, IT, and Finance and Accounting) under the General and Administrative function to preserve confidentiality of individual salary information for Indirect functions that have only one employee. The increase in budgeted Personnel Expenses is the result of adding 2.0 FTE

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[49] See the table on page 35 of the Texas RE 2009 Business Plan and Budget (Attachment 9 to the 2009 Business Plan and Budget Filing).

in 2009 (1.0 FTE in Legal & Regulatory and 1.0 FTE in IT), as well as a higher percentage of statutory versus non-statutory labor, equivalent to 0.3 FTE.

- Texas RE plans to add an attorney to its staff to provide corporate and standards advice and for representation in compliance enforcement, registration and other disputes. Correspondingly, Texas RE reduced its originally projected 2009 Budget for outside legal services (Professional Services budgeted under Legal and Regulatory) from $500,000 to $300,000.

- Texas RE is also adding an IT coordinator to facilitate many of the IT-related projects expected to be initiated and developed during 2009. These projects are significant and will enhance productivity; however, there will be significant maintenance associated with the new IT infrastructure, which will require a dedicated FTE in the IT function.

Texas RE's 2009 Budget for Meeting Expenses is planned to be $12,820 for General and Administrative. This represents an increase of 71%, or $5,340 over the 2008 approved Budget amount of $7,480 for General and Administrative. Texas RE's budgeted increase for Travel and Meeting expenses is necessary to ensure that Texas RE participates effectively in all Regional Entity, NERC and FERC activities. The 2009 Budget reflects an anticipated increase in the number of trips to be taken, additional staff travel as well as inflation in Travel expenses.

Office Rent is budgeted to increase to $517,550 in 2009 from $80,000 in the 2008 Budget. This represents an increase of $437,550 (which includes one-time expenses of $200,000 associated with the office relocation). This increase is due to Texas RE moving from its current offices to separate office space in Austin, Texas. Texas RE's new office space will be physically separate from the ERCOT offices. The $200,000 in one-time costs mentioned above are for the costs of the move, costs for furniture and equipment, and any required tenant improvements to the new office space. The rent amount is budgeted in the General and Administrative function, but benefits all Operating and Indirect functions.

The 2009 Budget for Contracts for administrative services that Texas RE obtains from ERCOT (*i.e.*, costs associated with the Board of Directors, Human Resources, Treasury, Insurance, Procurement) is $280,654 (excluding facilities costs discussed above under Office Rent and IT support services discussed in the next paragraph) versus $89,000 budgeted for 2008. This represents an increase of $191,654 year-over-year. These costs are established using a cost accounting methodology to determine costs by multiplying expense rates per service by units of consumption, which has been memorialized in a Memorandum of Understanding between Texas RE and ERCOT.[50] This methodology was finalized after the submission of the 2008 Texas RE budget, and therefore not reflected at full value in that plan. However, the increased costs for the services provided by ERCOT are appropriate given the service level received.

The 2009 Budget for Computer Purchase & Maintenance is $200,400 for the General and Administrative function. This represents an increase of $77,400 for the General and Administrative function over the 2008 approved Budget of $123,000. For 2009, the amount budgeted in the General and Administrative function represents IT support services that Texas RE receives from ERCOT pursuant to the Memorandum of Understanding and is an increase, year-over-year, of $77,400. The higher costs for 2009 are primarily related to increases in staffing, systems enhancements and rates associated with the services.

[50] The Memorandum of Understanding was included in the 2009 Texas RE Business Plan and Budget, Attachment 9 to the 2009 Business Plan and Budget Filing.

Texas RE budgeted $30,000 for Professional Services in the General and Administrative function for 2009. This represents a decrease of $130,000 from the 2008 approved Budget of $160,000 for the General and Administrative function. The 2009 Budget for outside legal services is budgeted under the Legal and Regulatory function; as such, $130,000 of what was budgeted in 2008 under General and Administrative was transferred to that function for 2009.

The 2009 Budget of $10,515 for Miscellaneous expense that Texas RE budgeted in General and Administrative is a 100% increase over the approved 2008 budget. These expenses are planned to provide training to all Texas RE employees. The types of expenses expected to be incurred are professional continuing education costs, and seminar attendance for all Texas RE employees.

e. WECC

WECC's budget for General and Administrative increased from $3,374,831 for 2008 to $9,156,606 for 2009, an increase of $5,781,775.[51] The principal driver of this increase is Personnel Expenses, which increased from $1,292,235 to $7,115,628 ($5,823,393 increase). However, a significant component of this increase is due to the fact that in the 2009 Budget, all Payroll Taxes and Retirement Costs and the majority of Benefits for all WECC statutory function staff (totaling approximately $4.7 million) are budgeted in General and Administrative, whereas in the 2008 Budget these costs were allocated among all the program areas. In addition, the 2009 Budget for Personnel Expenses in General and Administrative includes a $750,000 bonus pool for WECC employees which was not included in the 2008 Budget; and the amount of Salary expense

[51] *See* the table on page 47 of the 2009 WECC Business Plan and Budget, Attachment 10 to the 2009 Business Plan and Budget Filing.

budgeted for temporary help in 2009 was increased by $108,000. Overall salary increases account for the remainder of the increase.

Other factors in the overall increase in the 2009 Budget for General and Administrative over the 2008 Budget include: (1) Meeting Expenses (increased from $197,166 to $304,100) – budgeted Meeting Expenses were increased due to increased WECC headcount and the related increase in Travel expense. (2) Office Rent (increased from $67,861 to $360,000) – in the 2008 Budget, Office Rent (other than rent for the WECC Reliability Coordinator function) was allocated to all the program areas, but for 2009 Office Rent was budgeted only in General and Administrative and the Organization Registration and CMEP program, resulting in an apparent large increase in Office Rent under General and Administrative. However, total Office Rent for WECC (excluding rent for the Reliability Coordinator function) increased by only $20,000. (3) Office Costs (increased from $61,285 to $274,378) – Several components of Office Costs were increased in the 2009 Budget over the 2008 Budget due to increased headcount, including telephone expense ($53,000), office supplies ($85,000), and copy expense ($51,000; mainly costs of paper and toner).

The above-described increases in the General and Administrative budget for 2009 are offset by a decrease in Consultants costs under General and Administrative of $503,000 ($525,000 to $22,000). This decrease is due to the fact that computer software projects were budgeted under Consultants in General and Administrative in the 2008 Budget, but are budgeted under Contracts in IT in the 2009 Budget.

2. **FRCC Non-Statutory Activities**

In 2006, when the Regional Entities' statutory functions were first identified and defined, and a budget for these activities needed to be developed for 2007, FRCC, like other Regional Entities, had limited basis to estimate what resources would be needed to carry out these functions, and therefore to prepare a budget for them. As the successive annual (2008 and 2009) budgets have been developed, the tasks and activities included in the statutory functions have become better defined and understood, and an experience base has developed for estimating the resources required to carry out the statutory functions. In addition, over this period, FRCC, like other Regional Entities, has enhanced its Finance and Accounting staff in order to meet budgeting and financial accounting requirements that are more rigorous than in the pre-Regional Entity days.

Reflecting this evolution, FRCC budgeted some labor costs as "statutory" in 2007 and/or 2008 that it has subsequently determined should be budgeted as non-statutory costs. (The actual expenditures for these items, however, have been recorded and paid for as non-statutory costs.) In addition, in its 2009 statutory and non-statutory budgets, FRCC has included certain "pass-through" items (*i.e.*, revenue to be received in respect of the activity is projected to equal its cost). The amount of these "pass-through" items in the 2009 non-statutory budget is larger than the amount of the "pass-through" items in the 2009 statutory budget. Finally, for the first time in the 2009 budgets, FRCC has budgeted for a Cash Reserve Requirement; the amount budgeted in 2009 to reach the target Cash Reserve Requirement for non-statutory activities is much larger than the amount budgeted to reach the target Cash Reserve Requirement for statutory activities. As a result of the three factors just described, the FRCC 2009 non-statutory budget increased over the 2008 non-statutory budget relative to the increase in the statutory functions budget, resulting in the non-statutory budget comprising a larger percentage of the total (statutory plus non-statutory) FRCC budget for 2009 than was the case for 2008.

The table below shows the 2008 and 2009 statutory budgets adjusted for the above-described factors. The table shows that adjusted for these factors, the increase in the non-statutory budget as a percentage of the total FRCC budget from 2008 to 2009 is smaller (increase from 40.68% to 42.10%) than the increase based on the unadjusted budgets.

2009 FRCC Budget Summary Comparison

	2008	2009	% Change 2008:2009	
Statutory				
Reliability Standards Development	480,612	396,632	-17.5%	
Compliance Monitoring and Enforcement	2,003,574	2,338,249	16.7%	
Organization Registration & Certification	-	43,763		
Reliability Readiness Evaluation & Improvement	90,215	-	-100.0%	
Reliability Assessment & Performance Analysis	1,206,313	1,086,797	-9.9%	
Training, Education and Operator Certification	80,385	97,518	21.3%	See Pass Through *
Situational Awareness & Infrastructure Security	128,845	37,358	-71.0%	See Note on FTMS**
Total Statutory Expenses	**3,989,944**	**4,000,317**	0.3%	
Cash Reserve Requirement		(22,449)		
Total Statutory Funding	3,989,944	3,977,868	-0.3%	
Less Pass TE Throughs Not in 2008		(79,430)		*
FTMS Labor Budgeted as Stat s/b Non Stat	(76,000)			**
Plus Reserves Not in 2008		22,449		
Total Statutory on an Equal Basis	3,913,944	3,920,887	0.2%	
Percentage of Total Budget on an Equal Basis	**59.3%**	**57.9%**	**-2.4%**	
Non Statutory				
Operating Committee	1,736,885	2,120,755	22.1%	See Pass Through ***
Planning Committee	870,888	881,757	1.2%	
Total Non Statutory Expenses	**2,607,773**	**3,002,512**	**15.1%**	
Cash Reserve Requirement		358,600		
Total Non Statutory Funding	2,607,773	3,361,112	28.9%	
Less Pass Throughs Not in 2008		(151,700)		***
FTMS Labor Budgeted as Stat s/b Non Stat	76,000			**
Less Reserves Not in 2008		(358,600)		
Total Non Stat on an Equal Basis	2,683,773	2,850,812	6.2%	
Percentage of Total Budget on an Equal Basis	40.68%	42.10%	3.5%	
Total				
Total Budget Expenses	**6,597,717**	**7,002,829**	**6.1%**	
Cash Reserve Requirement	-	336,151		
Total Budget Funding	6,597,717	7,338,980	11.2%	
Total Budget Expenses on an Equal Basis	6,597,717	6,771,699	2.6%	

With respect to future years, FRCC expects that the non-statutory budget will have incremental increases due to additional resources for the reliability coordinator function (budgeted by FRCC as a non-statutory item) plus increases due to inflation. Inflation as well as other factors will impact the budget for statutory functions in future years as well. FRCC does not have a basis for projecting whether the budget for non-statutory activities will increase or decrease as a percentage of the total FRCC budget in future years.

3. SPP Regional Entity Working Capital Reserve and Shared Costs

Southwest Power Pool, Inc. ("SPP Inc.") is the approved Regional Entity with which NERC has contracted. Although SPP Inc. maintains functional separation between its Regional Entity functions and its other functions, the SPP RE cannot maintain its own operating cash balances or obtain its own bank line of credit, separate and apart from SPP Inc., because the "SPP RE" is not a separate legal entity. However, the SPP RE trustees have full authority over the spending of all funds received from NERC for the statutory budget, subject only to SPP Inc.'s general corporate policies and controls. SPP Inc.'s financial controls are appropriate for a multi-division corporation. SPP Inc. undergoes an annual financial audit to ensure compliance with and adherence to its corporate controls and to good business practices. SPP Inc.'s annual independent financial audit also assesses the application of SPP RE funds.

SPP Inc. has a $20 million line of credit with a major U.S. bank as well as other significant operating cash balances, which are available to support the funding needs of both the SPP RE and the SPP Inc. RTO. The SPP RE believes the SPP Inc. bank line of credit and operating cash balances provide more than adequate support for the SPP RE operations, as required by §8(f) of the Delegation Agreement between SPP Inc. and NERC.[52]

[52] "SPP's funding system shall include reasonable reserve funding for unforeseen and extraordinary expenses and other contingencies, consistent with generally accepted accounting principles."

In response to directives in FERC's March 21, 2008 Order concerning the regional delegation agreements,[53] NERC and SPP Inc. developed and agreed to a more detailed methodology for SPP Inc.'s identification of indirect/overhead shared services costs to be charged to SPP RE statutory functions, and they amended Exhibit E to their Delegation Agreement to incorporate the more detailed methodology. The amended Delegation Agreement was filed with FERC in NERC's July 21, 2008 compliance filing to the March 21 2008 Order,[54] and the parties are awaiting a FERC order on that filing. Although FERC has not yet acted with respect to the revised methodology for recording costs to be charged to SPP RE statutory functions, SPP RE believes the revised methodology addresses the concerns expressed by FERC in P 56 of the 2009 ERO Budget Order.

For purposes of creating budgets, SPP RE uses different averages for different staffing groups to approximate direct compensation amounts for staff time performing delegated functions. Averages are used because SPP RE does not necessarily know in advance which specific staff member will be performing which function during the subsequent year. The use of averages also protects confidential personal salary information, particularly for program areas with limited staff. Overhead/indirect costs are then applied to the number of FTE estimated for each statutory function. For the creation of the 2009 budget, SPP RE used an indirect rate of $101 per hour. The indirect cost allocation is separate from, and in addition to, the direct costs described in the first

[53] *Order Addressing Revised Delegation Agreements*, 122 FERC ¶ 61,245 (2008) ("March 21 2008 Order").

[54] *Compliance Filing of the North American Electric Reliability Corporation in Response to March 21, 2008 Order*, filed July 21, 2008, Attachment 9.

two sentences of this paragraph. SPP RE believes the indirect rate of $101 per hour used for the 2009 budget is an appropriate rate for corporate overhead costs and services such as IT, Telecommunications, Human Resources and Accounting.

For budgeting purposes, one FTE is assumed to perform 1,880 hours of work per year. SPP RE's 2009 budget includes 17.15 FTE, which equates to 32,242 work hours (17.15 FTE times 1,880 hours per FTE). Application of the $101 per hour indirect costs to the 32,242 work hours yields $3,256,442 of Indirect Expense, which is the amount provided in SPP RE's 2009 budget for Other Non-Operating Expenses.[55]

For purposes of recording actual costs, each staff member has his/her own specific direct compensation rate based on his/her own actual salary and benefits package. Each staff member is required to record all time spent supporting the delegated statutory functions so that the staff member's direct compensation can be multiplied by his/her number of recorded hours to determine actual costs. Differences between the results of this calculation (***i.e.***, the recorded actual costs) and the budgeted costs will be identified and discussed in the budget-to-actual costs true-up filing to be made with FERC by April 1 of each year for the preceding year.

4. Regional Entity Interest Income

a. FRCC

FRCC did not budget any interest income for 2009 because (i) FRCC believes there will be minimal over-collection of funds during 2009 (and therefore minimal cash balances that could earn interest income), and (ii) interests rates currently available on secure, short-term investments are very low. Any interest income that is earned during

[55] *See* 2009 Business Plan and Budget Filing, Attachment 8, at 57 (Table 1).

2009 will be factored into the calculation of funding needed for the Cash Reserve, and therefore the overall assessment level, for 2010, just as interest income earned in 2008 was used in calculating the Cash Reserve and funding and assessments required in the 2009 Budget.

b. MRO

MRO did not budget interest income because under MRO's banking arrangements, interest earned on balances is used to offset bank fees. MRO has now opened a separate bank account in which to deposit any penalties collected for violations of Reliability Standards; interest earned on any such deposits will not affect the 2009 Budget, but will be reflected in the 2010 Budget.

c. NPCC

NPCC did not budget interest income because its investments are confined to short-term U.S. Treasury securities which currently produce very little interest income due to very low current interest rates on such instruments. NPCC will record any interest income actually earned during 2009, which will be used to offset 2010 budget and funding requirements.

d. SPP Regional Entity

SPP RE did not include any interest income generated by cash balances in its 2009 Budget due to the significant recent decrease in interest rates on sweep accounts and the expected minimal impact of interest income on SPP RE's Budget. Any interest income earned by SPP RE on cash balances during 2009 will be used to reduce funding requirements and assessments for future years.

e. Texas Regional Entity

Texas RE did not include interest income in its 2009 Budget. Texas RE believes that it is unlikely material interest income earnings will occur in 2009. This is because of the very low interest rates (0.5%-0.8%) currently available for secure investment accounts. Although Texas RE had significant interest income during the first three quarters of 2008, due to its surplus funds from 2007 and the higher available interest rates, Texas RE believes factors have changed and that significant interest income earnings are unlikely in 2009. Any interest income that is received will be recorded and may contribute to a surplus of funding over expenses for 2009; any such surplus would be used to reduce the funding and assessment amounts that would otherwise be required to support the Texas RE 2010 budget.

5. Regional Entity General & Administrative Salary Increases

In general, NERC was not surprised by the fact that many of the Regional Entity 2009 Budgets showed significant increases in Salary expense per FTE. With the NERC Reliability Standards becoming mandatory and enforceable in June 2007, the NERC and Regional Entity CMEPs being implemented, and noncompliance with mandatory Reliability Standards now potentially resulting in substantial financial penalties to owners, operators and users of the bulk power system, there is great demand in the industry for qualified, experienced engineering and other technical personnel to work in standards-related and compliance-related positions. NERC and the Regional Entities have encountered difficulty in attracting qualified, experienced personnel to fill previously-budgeted positions, particularly in their Reliability Standards Programs and CMEPs, and have had to increase the compensation levels initially offered in order to attract the necessary qualified personnel to fill positions. Further, NERC and all Regional Entities have budgeted increased staffing in their CMEPs for 2009. NERC and the Regional Entities are not just competing with each other to attract qualified, experienced technical personnel for these positions; they are also competing with owners, operators and users of the bulk power system that are now developing and implementing formal compliance programs, and with consulting and contracting firms that provide standards-related and compliance-related services to the industry. Moreover, the need to offer higher compensation levels to attract additional qualified, experienced personnel means that entities must also pay higher compensation to retain the qualified employees they already have, and to maintain a consistent and equitable overall compensation structure. The end result of all these factors is that, in general, Regional Entities' 2009 Budgets reflect increases in Salary expense per FTE that exceed salary increases occurring in the overall economy.

In P 60 and footnote 41, FERC cited three instances of "substantial" increases in Salary expense per FTE from the 2008 Budget to the 2009 Budget, specifically in the General and Administrative budgets of SERC, Texas RE and WECC. However, NERC assumes that FERC is requesting additional information on any "substantial" increases in Salary per FTE for a Regional Entity program from its 2008 Budget to its 2009 Budget, not just explanations for the three instances cited in footnote 41. For purposes of preparing a response to P 60, NERC calculated the increase in Salary per FTE from the 2008 Budget to the 2009 Budget individually for each Regional Entity statutory program, and in the aggregate for each Regional Entity's Indirect Costs.[56] **Attachment 5** shows the percentage increases in Salary per FTE by Regional Entity program from the 2008 budgets to the 2009 budgets. For purposes of responding to FERC's request for further explanation of "substantial" increases in Salary per FTE, NERC identified those Regional Entity programs (including Indirect Costs in the aggregate) that showed an increase in Salary per FTE from the 2008 Budget to the 2009 Budget of 15% or greater, and requested explanations of these increases from the Regional Entities. The following text discusses, by Regional Entity, the increases in budgeted Salary per FTE in each Regional Entity program for which the increase is 15% or more.

a. FRCC

In the FRCC 2009 Budget, Salary per FTE increased by 32.8% for the Training, Education and Operator Certification Program, over the 2008 Budget. However, FRCC is actually reducing its FTEs in this program from 0.30 to 0.03 and reducing its budgeted salary from $38,587 to $6,604, so although the increase in Salary per FTE calculates to 32.8%, the actual budgeted Salary expense for 2009 is minimal.[57]

b. Midwest Reliability Organization

In the MRO 2009 Budget, Salary per FTE increased by 25.5% for the CMEP and Organization Registration Program, by 18.7% for the Reliability Assessment and Performance Analysis Program, and by 39.6% for the Situational Awareness and

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[56] The continuing statutory programs analyzed for this purpose are Reliability Standards, CMEP and Organization Registration, Reliability Assessment and Performance Analysis, Training, Education and Operator Certification, and Situational Awareness and Infrastructure Security. The Readiness Evaluation Program was not analyzed due to the decision to discontinue this program and the fact that the Regional Entities either did not budget for it for 2009, or only budgeted costs for the wind-down of the program.

[57] *See* Attachment 3 to the 2009 Business Plan and Budget Filing at 18-20.

Infrastructure Security Program. The budgeted Salary per FTE for the MRO CMEP and the MRO Reliability Assessment and Performance Analysis Program are increased due to the higher salaries paid to new hires (MRO is increasing its CMEP staffing by 2.0 FTE over the staffing during 2008, and is increasing its staffing in Reliability Assessment and Performance Analysis by 2.55 FTE over the 2008 Budget). This experience is consistent with the experience of other Regional Entities and of the electric industry due to the demand to hire experienced technical and engineering personnel for compliance auditing and other CMEP and reliability-related positions. With respect to Situational Awareness and Infrastructure Security, MRO's 2008 Budget reflected only 0.35 FTE and its 2009 Budget reflects only 0.25 FTE; however, the partial position budgeted for 2009 is an executive staff position carrying a higher salary than the staff position reflected in the 2008 Budget. MRO's budgeted salary expense for this program was only $38,539 for 2008 and is essentially unchanged for 2009 at $38,415.

c. NPCC

In the NPCC 2009 Budget, overall average Salary per FTE increased from the 2008 Budget by some 24%, with individual program area increases of 38.1% for the Reliability Standards Program, 26.3% for the CMEP and Organization Registration Program, 33.4% for the Reliability Assessment and Performance Analysis Program, 22.6% for the Situational Awareness and Infrastructure Security Program, and 17.1% for Indirect functions.

The year-ahead early timing of the development of each of the 2007 and 2008 Budgets did not allow for a realistic estimate of the impacts of the actual costs associated with differing staff hired in anticipation of and following the commencement of mandatory compliance with Reliability Standards in June of 2007. The full-year effects of the approximate 50% staffing increase are reflected to the extent possible in the 2009 Budget and represent the successful recruitment of highly qualified, senior and managerial technical experts who provide an invaluable asset to NPCC.

As a benefit of NPCC's location and proximity to a number of large utilities, it has had the opportunity to attract second career professionals with extensive backgrounds and experience to positions with NPCC. These additional staff have been hired into manager positions that had been previously budgeted at engineer/senior engineer levels, resulting in higher costs than previously budgeted (but for employees with greater experience and backgrounds). The higher Salary expense for these hires is reflected in the 2009 Budget. Further, the salaries paid to these new hires have generally brought NPCC's salary levels closer to market levels; previously, NPCC's typical compensation packages included average annual salary increases in the 3 to 4 percent range with salary bandwidths increasing annually in the 2 to 3 percent range. In setting compensation levels, the NPCC Board has had the benefit of two compensation studies prepared by an independent compensation consulting firm in the Fall of 2006 and Fall of 2007. These studies found NPCC's compensation levels to be at the median or below for the tri-state area (New York, New Jersey and Connecticut). With the benefit of these studies, the NPCC Board has continued an overall compensation policy seeking to maintain NPCC salaries overall at approximately the 50th percentile for the tri-state area, but targeting salaries at the 75th percentile where necessary for attraction and retention of staff.

The percentage increase in Salary per FTE for the Reliability Standards Program reflects the fact that Salary expense is increased by $31,478 (10.5%) over the 2008

Budget while budgeted staffing is slightly reduced from 3.5 FTE to 3.0 FTE.[58] Salary expense is increased in the 2009 Budget due to general salary increases and the more experienced level of personnel NPCC has been able to hire.

The percentage increase in Salary per FTE for the CMEP and Organization Registration Program reflects the fact that Salary expense is increased by $377,098 (55.5%) over the 2008 Budget while budgeted staffing is increased by only 20% (7.5 FTE to 9.0 FTE). Salary expense is increased in the 2009 Budget due to the additional FTE staffing, general salary increases and the more experienced level of personnel NPCC has been able to hire.

The percentage increase in Salary per FTE for the Reliability Assessment and Performance Analysis Program reflects the fact that Salary expense is increased by $210,317 (48.6%) over the 2008 Budget while budgeted staffing is increased by only 11.4% (3.5 FTE to 3.9 FTE). Salary expense is increased in the 2009 Budget due to the additional FTE staffing, general salary increases and the more experienced level of personnel NPCC has been able to hire.

The percentage increase in Salary per FTE for the NPCC Situational Awareness and Infrastructure Security Program reflects the fact that Salary expense is increased by $207,127 (145%) over the 2008 Budget while budgeted staffing is increased from 1.0 FTE to 2.0 FTE. The increased Salary expense in the 2009 Budget is primarily due to the added 1.0 FTE at a higher salary.

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[58] Salary increase and FTE change amounts in this paragraph and the remainder of the NPCC response are taken from tables in the NPCC 2009 Business Plan and Budget, Attachment 5 to the 2009 Business Plan and Budget Filing.

NPCC's budgeted 2009 Salary expense for all Indirect function is $332,388 (35.3%) higher than the budgeted 2008 Salary expense, while budgeted staff is increased by 1.0 FTE (8.2 FTE to 9.2 FTE). Salary expense is increased in the 2009 Budget due to the additional FTE staffing, general salary increases and the more experienced level of personnel NPCC has been able to hire. In addition, in the 2009 Budget. NPCC accumulated all Regional Entity Division budgeted amounts for employment agency fees and temporary office services in the General and Administrative component of Indirect Costs.

d. Reliability*First*

In the Reliability*First* 2009 Budget, Salary per FTE increased by 23.7% for the Reliability Standards Program over the 2008 Budget, which is also the percentage increase in Salary expense, since budgeted staffing for this Program remains unchanged at 2.0 FTE. The increase in budgeted Salary expense is $65,899. The primary cause for this increase is that Reliability*First* has found it necessary to budget for increases in compensation in order to attract qualified, experienced technical staff and to retain the qualified technical staff already in its employ. As NERC and other Regional Entities have reported, qualified, experienced engineering and other technical personnel are currently in great demand, not only by NERC and the Regional Entities but also by owners, operators and users of the bulk power system who must now implement programs for maintaining compliance with mandatory Reliability Standards. While the principal area in which increased technical staffing is needed is the CMEP (Reliability*First* has budgeted an increase in staffing in its CMEP from 12 FTE to 23 FTE for 2009), the need to offer higher compensation levels to attract additional qualified

CMEP staff also affects the compensation levels needed to retain Reliability*First*'s existing technical staff. This impact is magnified on a per-FTE basis for the Reliability Standards Program which currently has only 2.0 FTE staff.

e. SERC

There are no programs in the SERC 2009 Budget for which Salary per FTE increased by 15% or more over the 2008 Budget. Footnote 41 of the 2009 ERO Budget Order states that Salary per FTE in General and Administrative increased by 95% in the SERC 2009 Budget over the 2008 Budget.[59] However, in the 2008 Budget, SERC budgeted Salary expense for the General and Administrative, IT, Finance and Accounting and Human Resources functions separately under each of these functions, whereas in the 2009 Budget SERC accumulated the Salary expense for all of these functions under General and Administrative in order to protect the confidentiality of individual salary information for those functions with only a small number of employees. The accumulation of Personnel Expenses for General and Administrative, IT, Finance and Accounting and Human Resources under General and Administrative was described at page 32 of the SERC 2009 Business Plan and Budget.[60] For the General and Administrative function employees only, the increase in Salary per FTE from the 2008 Budget to the 2009 Budget is 8.6%.

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[59] NERC and SERC believe the 95% increase in Salary per FTE for SERC General and Administrative, cited in footnote 41 of the 2009 ERO Budget Order, is incorrect. The 95% increase is actually the increase in General and Administrative Salary expense ($456,421 to $890,649, *see* the table on p. 33 of Attachment 7 to the 2009 Business Plan and Budget Filing), not the increase in Salary expense per FTE. As noted in the text above, the 2008 Budget figure for Salary expense is for General and Administrative staff only, while the 2009 Budget figure is the Salary expense for General and Administrative, IT, Finance and Accounting and Human Resources.

[60] Attachment 7 to the 2009 Business Plan and Budget Filing.

f. SPP Regional Entity

In the SPP RE 2009 Budget, Salary per FTE increased by 17.5% for the CMEP and Organization Registration Program and by 26.0% for the Training, Education and Operator Certification Program. While SPP RE's 2009 Budget was prepared using a standard 4.8% merit increase for Salary expense, the percentage increases for Salary expense in individual programs may vary due to the experience mix and compensation levels for staffing additions and subtractions and promotional increases. Specifically, both the CMEP and the Training Program are using more experienced and higher level staff than in previous years. For the CMEP, the 2009 Budget reflects 2.5 additional FTE over the 2008 Budget. For the Training Program, the budgeted 2009 staff is reduced to 3.0 FTE from 4.0 FTE in the 2008 Budget, and budgeted Salary expense is reduced from $317,091 to $299,694; however, the staffing reduction reflects elimination of a lower-level position, resulting in higher Salary per FTE for the remaining staff.[61]

g. Texas Regional Entity

In the Texas RE 2009 Budget, Salary per FTE increased by 67.1% for the Reliability Assessment and Performance Analysis Program. Based on a review of time tracking trends and as a result of reorganization, Texas RE has reduced the staffing for this program in 2009 to 2.2 FTE from 5.25 in the 2008 Budget. (As a result of the reorganization, 3 FTE are being reassigned to support the CMEP, Training, and the Situational Awareness Programs.) Budgeted Salary expense for the Reliability Assessment and Performance Analysis Program is being reduced from $385,676 in 2008

[61] *See* the table on page 25 of Attachment 8 to the 2009 Business Plan and Budget Filing.

to \$270,100 for 2009.[62] The remaining 2.2 FTE in this program are more senior level employees, with significantly higher average salaries than the average salary of the 5.25 FTE budgeted for this program for 2008. As a result, the Salary per FTE for this program in the 2009 Budget is higher than in the 2008 Budget.

Footnote 41 to P 60 of the 2009 ERO Budget Order states that Texas RE's Salary per FTE for the General and Administrative function increased by 283% from the 2008 Budget to the 2009 Budget. However, Texas RE's Salary expense per FTE for the General and Administrative function did not increase significantly from the 2008 Budget to the 2009 Budget. The increase noted in footnote 41 of the 2009 ERO Budget Order is due to Texas RE consolidating the budgeted Salary expense for all Indirect function employees under General and Administrative in the 2009 Budget. This was done in order to protect the confidentiality of individual salary information for employees in functions that have only a single employee.[63] For all Indirect functions, Texas RE's Salary expense per FTE was \$111,146 in the 2008 Budget and is \$112,364 in the 2009 Budget. This represents an increase of only 1.1% year-over-year.

h. WECC

In the WECC 2009 Budget, Salary per FTE increased by 19.5% for the Training, Education and Operator Certification Program and by 40.6% for Indirect functions. In the Training Program, budgeted Salary expense increased by \$89,986 and staffing is

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[62] *See* the tables on pages 25 and 27 of Attachment 9 to the 2009 Business Plan and Budget Filing.

[63] *See* page 36 of the 2009 Texas RE Business Plan and Budget (Attachment 9 to the 2009 Business Plan and Budget Filing).

being increased by 0.5 FTE; the increase in Salary expense is due to increased salary for existing staff and the addition of a new part-time Training Instructor.[64]

Some of the factors causing the increase in budgeted General and Administrative expense in the WECC 2009 Budget, as identified in the response to P 53, above, also impacted the growth in budgeted Salary per FTE for the Indirect functions in the WECC 2009 Budget. These factors include the provision for a $750,000 bonus pool for WECC employees, budgeted in its entirety under General and Administrative; and an increase of $108,000 in the amount of Salary expense budgeted for temporary help (also budgeted in General and Administrative). In addition, $583,000 of Salary expense is budgeted for Legal and Regulatory for 2009 for the addition of a general counsel, two in-house attorneys and a paralegal, whereas no Salary expense was budgeted for Legal and Regulatory for 2008. Several other relatively higher-level positions are being added in 2009 in other Indirect functions, including a part time Training Coordinator in Technical Committees and Members' Forums (time split with the Training, Education and Operator Certification Program); a senior engineer or analyst and an Office Manager in General and Administrative; a Human Resources generalist in Human Resources to support the Reliability Coordination Centers; and an accountant in Finance and Accounting. Finally, overall salary level increases account for a portion of the increase in Salary per FTE for the Indirect functions in the 2009 Budget.

[64] *See* the tables on pages 27 and 29 of Attachment 10 to the 2009 Business Plan and Budget Filing.

6. **WIRAB Business Plan and Budget**

WIRAB applied NERC budget procedures and templates to account for unspent funds at the end of 2008. WIRAB developed its proposed 2009 Budget based on staffing needs, associated indirect costs, meetings costs, consultant costs and travel costs. Proposed 2009 assessments to support the 2009 Budget were then reduced by expected unspent funds at the end of 2008. As a result, although WIRAB's proposed budget for 2009 is $595,810, its funding requirement for 2009 is only $378,272.

WIRAB projects $214,562 in unspent funds at the end of 2008 largely because of lower than necessary travel, unused consulting funds, and the difficulty WIRAB has had in filling a technical staff position it had budgeted. WIRAB has been unable to fill a technical staff position it had budgeted for 2008, and therefore is not incurring the budgeted direct Salary expense and associated personnel-related Indirect Expenses for this position during 2008. WIRAB has been attempting, without success, to recruit an electrical engineer with experience relevant to Section 215 issues. The 2009 WIRAB Budget includes funding for 2.25 FTE. This is an increase of only 0.25 from the 2.0 FTE budgeted for 2008, and is being made in response to a growing workload as the Section 215 program moves from design into implementation. The 2009 Budget assumes WIRAB will be successful in filling the technical staff position it has been unable to fill over the past year. This will enable some current staff support for WIRAB to be reassigned to their non-WIRAB responsibilities. WIRAB anticipates filling this position by January 2009 and attaining the budgeted 2.25 FTE.

WIRAB's 2009 Budget for Salary expense is an increase of $83,836, or 55%, over the 2008 Budget.[65] The increase in Salary expense is due both to the increase in staffing for 2009 and the escalating salary requirements to hire and retain qualified staff. WIRAB's budgeted Indirect Expense is tied directly to Personnel Expenses. The 2009 WIRAB Budget includes $240,210 for Indirect Expenses compared to $154,697 in the 2008 Budget, an increase of 55%. The percentage increase in budgeted Indirect Expenses corresponds to the percentage increase in Salary expense. WIRAB used the same Indirect Expense rate (described in the next paragraph) to prepare its 2009 Budget as it used to prepare its 2008 Budget.

WIRAB uses a single-rate method to calculate the Indirect Expense rate. Personnel-related costs such as Payroll Taxes, Benefits and Retirement Costs are included in the Indirect Expense rate rather than budgeted under "Personnel Expenses." The largest portion of WIRAB's Indirect Expense is employee Benefits and Retirement Costs. Employee Benefits and Retirement Costs include medical insurance, dental, life and long-term disability insurance, Social Security, Medicare, and a 401(k) plan match, as well as all vacation, sick leave and holiday hours that employees use. Employee Benefits costs are tied to the number of employees and will increase with the increase in staffing. In addition, overall medical insurance costs have been rising about 10 to 15 percent per year, even before the impact of increased staffing. WIRAB's medical insurance costs are budgeted to increase by 12.5% for 2009.

WIRAB's budgeted Indirect Expense also includes Office Rent, Office Costs, Professional Services, Computer Purchases & Maintenance and Furniture & Equipment.

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[65] *See* the table on page 6 of the WIRAB 2009 Business Plan and Budget (Attachment 11 to the 2009 Business Plan and Budget Filing).

In addition, certain labor hour functions are allocated to Indirect Expense, including accounting, web page management and labor hours that apply to all WIRAB activities. Costs for Office Rent, Office Costs (telephone costs) and maintaining a web page have increased to a lesser extent than have the costs for medical insurance and other Benefits.

D. Cost Allocation

NERC CMEP Costs

The NERC CMEP costs that are excluded from the allocation to IESO and Québec are allocated to all other Regional Entities, and ultimately to all other LSEs (including those within NPCC outside of IESO and Québec) on the basis of Net Energy for Load ("NEL").[66] As stated at pages 64-66 of the narrative portion of NERC's 2009 Business Plan and Budget Filing, the excluded NERC CMEP costs were allocated to all other entities under the general allocation methodology used in developing the NERC assessments, which, as described at pages 20-22 of the narrative portion of the 2009 Business Plan and Budget Filing, is NEL for CMEP costs.[67]

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[66] As noted in the 2009 Business Plan and Budget Filing, the NERC assessment for the NPCC Region, and the NPCC assessments, are billed to a single entity for each of the six Balancing Authority Areas within NPCC. *See* 2009 Business Plan and Budget Filing at 23-24 and footnote 7, and Attachment 5 (NPCC Business Plan and Budget) to the 2009 Business Plan and Budget at 63. Neither NERC nor NPCC calculates and bills assessments to individual LSEs within NPCC.

[67] In preparing this response, NERC noted that footnote 93 in the narrative portion of its 2009 Business Plan and Budget Filing was awkwardly worded and may have caused confusion. Footnote 93 would have been better stated as follows: "That is, the NERC costs are allocated among all remaining entities **on the basis of NEL**, and the NPCC costs are allocated among the remaining Balancing Authority Areas within NPCC based on an audit-based allocation methodology."

NPCC CMEP Costs

As a result of the international nature of NPCC and the differing compliance responsibilities and authorities within the Canadian portions of the NPCC Region as compared to the compliance responsibilities and authorities within the U.S. portion of the Region, the implementation and attendant costs of portions of the compliance program differ among the entities. In the United States portion of NPCC, the compliance program is implemented as per FERC-approved Regional Delegation Agreement between NPCC and NERC. NPCC utilizes the NERC CMEP to conduct compliance monitoring, assessment and enforcement consistent with the other Regional Entities. However, in the Canadian portions of NPCC, the provinces of Ontario, Québec, New Brunswick and Nova Scotia, compliance monitoring, assessment and enforcement is conducted uniquely per province, consistent with the terms contained in four individual Memoranda of Understanding or Agreements ("MOU") between each province, NERC and NPCC. These provincial agreements create specific compliance program implementation models, which in turn create the need for alternate cost allocation methodologies.

For example, as per the terms of the MOU between NPCC, NERC and the IESO (Ontario), NPCC is responsible for monitoring and assessing compliance of the IESO with NERC and NPCC Reliability Standards. Per provincial law, the IESO, through its own compliance division, administers Ontario's compliance program for compliance by the IESO and Ontario market participants with applicable NERC and NPCC Reliability Standards. Since NPCC does not conduct compliance monitoring and enforcement on all entities in Ontario, it would not be appropriate to allocate, to the IESO, expenses associated with that portion of the implementation of the compliance program as it would with a Registered Entity in the U.S. portion of NPCC, where NPCC is fully responsible for monitoring and assessing compliance by all entities with Reliability Standards. In addition, it is noted that Ontario market participants, through the IESO's fees, fund the total cost of the IESO's compliance program, which addresses compliance by all Ontario parties with all NERC and NPCC standards.

To address the different compliance regimes, NPCC developed a composite cost allocation methodology that allocates costs on a fair and equitable basis within the Region. NPCC, in developing this methodology, reviewed all aspects of the compliance program including costs associated with overall development, administration, registration, enforcement, implementation of compliance audit program, and maintenance of tools and software applications. As a result of this analysis, the NPCC Board of Directors unanimously agreed that 55% of all costs, direct and indirect, related to the NPCC CMEP should be shared by all regional participants, both U.S. and Canadian entities, on a NEL basis. These costs are related to broad-based and generic activities that are associated with the overall development, administration and enforcement aspects of the CMEP. Since these fundamental activities are instrumental to the implementation of the overall CMEP that provide benefits to all participants and are not related to specific compliance program implementation models, the costs for these activities are to be shared by all participants. In the case of the IESO, since NPCC's compliance activities with respect to Ontario focus solely on the IESO, and because the IESO's compliance program performs compliance activities that would otherwise have to be performed by NPCC, it was agreed in 2007 that the 55% portion of NPCC's compliance costs constituted the total compliance cost base applicable to Ontario.

The NPCC Board of Directors further agreed that the remaining 45% of the costs of the NPCC CMEP should be apportioned based on the relative costs associated with the different compliance program implementation models that arise in NPCC due to the international nature of the Region, rather than the NEL methodology that is utilized to allocate the rest of the NPCC budget. Defining a cost allocation methodology proportionally based on the costs associated with implementation of the compliance audit program, acknowledges the differing resources required to accomplish compliance across the Region, and provides for the fair and equitable assessment of the remaining 45% of the compliance program expenses. The NPCC Board of Directors also unanimously agreed that the audit-based methodology should be applied consistently throughout the Region.

In its development of the audit-based allocation methodology, NPCC determined that the scope of a compliance audit is more dependent on the functions that a particular entity has been registered for by NPCC and the Reliability Standards associated with those functions, than it is on the size of the service territory, number of customers, amount of NEL or other operational characteristics. The amount of time and effort required for the audit, and thus the projected costs associated with the audit, depends largely on the number of requirements associated with the Reliability Standards included in the audit. In addition, to simplify the calculations, NPCC defined three categories of audits and attributed a relative cost estimate to each type of audit for estimating and comparison purposes only. The three categories of audits are: small (25 or fewer requirements in audit); medium (26 to 75) and large (more than 75).[68] NPCC is also enhancing, from a reliability perspective, the consistency of its functional registration throughout the Region to assure that responsibility for compliance with Reliability Standards continues to be appropriately assigned with no gaps or overlaps in reliability responsibilities.

Applying this composite cost allocation methodology, made up of the two components described above, NPCC calculates cost allocation for any of the compliance program implementation models that exist or will exist in the future within the NPCC Region. Consistently applied throughout the Region, this approach provides that each Balancing Authority is allocated, on behalf of its LSEs, assessments that reflect the projected costs associated with monitoring and enforcing compliance within NPCC. [69]

E. Status Report on Reliability Enhancement Programs (Docket No. RR07-14-001)

The purpose of NERC's metrics and benchmarking activities is to identify, understand, and, whenever possible, facilitate adoption of best practices or techniques that help improve reliability performance over time. NERC's approach follows a four-phase continuous process and improvement cycle: plan, collect, analyze and adapt. In P 72 of the 2009 ERO Budget Order, FERC recognized NERC's metrics and benchmarking activities are important to support bulk power system reliability.

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[68] These size categories match the size categories that the Regional Entities and NERC have adopted for developing audit-related metrics, as discussed above in the response to P 47.

[69] Table 6 on page 63 of the NPCC 2009 Business Plan and Budget shows the NEL-based and audit-based allocations of 55% and 45%, respectively, of NPCC's 2009 CMEP budget to the six Balancing Authority Areas.

NERC has devoted resources to metrics and benchmarking development since 2006. In 2006, NERC launched its reliability benchmarking dashboard. In 2007, NERC formed an internal benchmarking team, bringing functional expertise and the perspectives from each NERC program together to help direct the effort. The benchmarking team proposed three main reliability indices and an advanced system for establishing performance metrics, benchmarks, and reliability leading indicators.

In 2008, NERC's reliability dashboard was updated with revised performance indices and leading indicator trends.[70] These performance indices and trends will be tracked in 2009 and changes in reliability performance will be reported. With information gathered and experience gained in 2009, benchmarks for each indicator may then be developed.

In early 2008, NERC's Planning Committee formed a Reliability Metrics Working Group to advise, and support the needs of, the metrics and benchmarking efforts. The group is now formed and has provided input on enhancements to the program. With this input, NERC is increasing the scope of work in 2009 to include defining metrics for assessing an Adequate Level of Reliability, determining data collection and reporting guidelines, and initializing data collection and analyses not previously identified. With sufficient performance data gathered and clear trends in metrics identified, NERC plans to work with industry and with regulatory and other governmental organizations to propose benchmarks for each characteristic of Adequate Level of Reliability, to identify best practices, and to recommend changes to Reliability Standards based on those trends in metrics.

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[70] *See* http://www.nerc.com/page.php?cid=4|37

As an example, NERC has identified that protection system misoperation is a leading root cause of bulk power system disturbances. Data gathered by NERC indicates that protection system misoperation or inadequate performance has caused or exacerbated a growing percentage of bulk power system outages over the past several years, contributing to over 40% of tracked disturbances in 2007. This data will require additional analysis in 2009 to see if the trend has continued, and the problem of protection system misoperation may ultimately require new approaches to mitigate these root causes of disturbances and outages.

Considering the increased scope of work for 2009, the objective of more frequently updating the reliability dashboard, and the newly-developed work plan to define metrics for assessing Adequate Level of Reliability, NERC now intends to add a data analyst (1.0 FTE) to the metrics and benchmarking group in the Reliability Assessment and Performance Analysis Program in 2009. This staff member will more frequently update and maintain the existing metrics database, incorporate additional data sources, refresh the dashboard more frequently with the updated data, and develop and maintain data for new metrics. The budgeted cost for the additional 1.0 FTE is $123,518, consisting of $88,500 of Salary expense, $25,518 of related Personnel Expense (Payroll Taxes, Benefits and Retirement Costs), $7,500 in Travel expense and $2,000 in Office Costs.

NERC did not intend to omit the benchmarking objectives listed in P 73 from its 2009 activities. These activities are included in the planned work of the metrics and benchmarking groups as further described, above, or have been included in the 2009 Business Plan and Budget in other programs. The discussion below reports on the status of the benchmarking objectives listed in P 73 that were included in NERC's 2008 Business Plan and Budget, and provides an explanation of how these objectives are accommodated within the 2009 activities.

1. Incorporate the results of the latest reliability threats survey into the Reliability Dashboard.

Although incorporating the results of the latest reliability threats survey into the reliability dashboard was listed as an objective in the 2008 Business Plan and Budget filed in August 2007, the reliability threats survey[71] is closely linked to NERC's long-term reliability assessments, and the survey results were incorporated into NERC's 2007 Long-Term Reliability Assessment Report ("LTRA").[72] Nevertheless, NERC will review the reliability threats survey in light of the metrics data currently being collected to determine if changes should be made to the dashboard. NERC will include the results of that work and an update on further planned activities in this area as part of the reliability enhancement discussion to be included in its 2010 Business Plan and Budget that will be filed in August 2009.

2. Report on changes in reliability performance compared to established benchmarks for each reliability performance indicator.

Preparation of these reports will be addressed in the performance metrics and reliability leading indicator work to be performed during 2009, described above. Benchmark levels will be determined as the experience with the metrics and reliability leading indicators increases.

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[71] Available at http://www.nerc.com/files/Reliability_Issue_Survey_Final_Report_Rev.1.pdf

[72] 2007 LTRA Report at 19-20. The 2007 LTRA Report is available at http://www.nerc.com/files/LTRA2007.pdf

3. Develop and submit standards authorization requests, as required, for any deficiencies or needs revealed by the benchmarking program.

This is an ingoing objective, with standards authorization requests ("SAR") to be developed as needs and experience indicate, rather than on a fixed time schedule or by a fixed deadline. SARs may be developed and submitted, as warranted, as a result of the work on performance metrics, benchmarking and reliability leading indicators described above.

4. Maintain a Generating Availability Data System (GADS) on the performance of electric generating equipment.

NERC continues to maintain the GADS, as it has for many years. The planned activities and objectives for 2009 for the GADS are described at pages 43-44 of NERC's 2009 Business Plan and Budget, in the discussion of the Reliability Assessment and Performance Analysis Program. Additionally, the data and trend analyses developed by the GADS are incorporated into the performance metrics, benchmarking, and reliability leading indicators work described above and at page 42 of the 2009 Business Plan and Budget.

5. Communicate performance results, trends, recommendation, and initiatives to those responsible to take actions; follow with confirmation of actions to correct any deficiencies identified.

The preparation and issuance of reports and other communications to the industry, as well as follow-up communications to obtain confirmation of actions, will be considered and addressed as part of the 2009 work on performance metrics and reliability leading indicators described, above. Similar to the development of SARs (item 3 above), the issuance of reports and other communications on performance results and recommendations to the industry will not necessarily occur on a fixed, periodic schedule or by a specific deadline, but rather will occur from time to time as warranted by information gathered through the performance metrics and reliability leading indicators work.

6. Establish and maintain a Transmission Availability Data System (TADS) and report on trends in transmission equipment performance.

The developmental and implementation work for the TADS is continuing in 2008 and 2009. The planned activities and objectives for 2009 for the TADS are described at pages 42-43 of NERC's 2009 Business Plan and Budget, in the discussion of the Reliability Assessment and Performance Analysis Program. Additionally, the data and trend analyses that will be developed by the TADS are incorporated into the performance metrics, benchmarking, and reliability leading indicators work described above and at page 42 of the 2009 Business Plan and Budget.

Respectfully submitted,

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ATTACHMENT 1

SUPPLEMENTAL AND REVISED TABLES

FOR NERC 2009 BUSINESS PLAN AND BUDGET

Section A – Revised Budget

Statement of Activities
2009 Budget Original Filing, 2009 Revised Budget & Variance
Reliability Standards

	2009 Budget Original Filing	2009 Revised Budget	Variance Over(Under)
Funding			
ERO Assessments	$ 3,041,445	$ 3,041,445	-
Membership Dues	-	-	-
Testing Fees	-	-	-
Services & Software	-	-	-
Workshops	-	-	-
Interest	-	-	-
Miscellaneous	-	-	-
Total Funding	**$ 3,041,445**	**$ 3,041,445**	**-**
Expenses			
Personnel Expenses			
Salaries	$ 1,883,419	$ 1,927,670	44,251
Payroll Taxes	118,776	122,162	3,386
Benefits	203,272	208,368	5,096
Retirement Costs	271,107	275,384	4,278
Total Personnel Expenses	**$ 2,476,574**	**$ 2,533,584**	**57,010**
Meeting Expenses			
Meetings	$ 168,120	$ 168,120	-
Travel	300,000	300,000	-
Conference Calls	10,000	10,000	-
Total Meeting Expenses	**$ 478,120**	**$ 478,120**	**-**
Operating Expenses			
Consultants	$ 50,000	$ 550,000	500,000
Contracts	-	-	-
Office Rent	-	-	-
Office Costs	36,750	37,750	1,000
Professional Services	-	-	-
Computer Purchase & Maintenance	-	-	-
Furniture & Equipment	-	-	-
Miscellaneous	-	-	-
Contingency	-	-	-
Total Operating Expenses	**$ 86,750**	**$ 587,750**	**501,000**
Other Non-Operating Expenses	**$ -**	**$ -**	**-**
Total Expenses	**$ 3,041,445**	**$ 3,599,454**	**558,010**
Change in Assets	**$ -**	**$ (558,010)**	**(558,010)**

Section A – Revised Budget

Statement of Activities
2009 Budget Original Filing, 2009 Revised Budget & Variance
Compliance and Organization Registration and Certification

	2009 Budget Original Filing	2009 Revised Budget	Variance Over(Under)
Funding			
ERO Assessments	$ 6,481,457	$ 6,481,457	-
Membership Dues	-	-	-
Testing Fees	-	-	-
Services & Software	-	-	-
Workshops	-	-	-
Interest	-	-	-
Miscellaneous	-	-	-
Total Funding	**$ 6,481,457**	**$ 6,481,457**	**-**
Expenses			
Personnel Expenses			
Salaries	$ 3,695,616	$ 4,093,866	398,250
Payroll Taxes	246,678	277,144	30,466
Benefits	421,969	467,835	45,865
Retirement Costs	515,528	554,025	38,498
Total Personnel Expenses	**$ 4,879,790**	**$ 5,392,869**	**513,079**
Meeting Expenses			
Meetings	$ 32,500	$ 32,500	-
Travel	657,167	762,167	105,000
Conference Calls	5,000	5,000	-
Total Meeting Expenses	**$ 694,667**	**$ 799,667**	**105,000**
Operating Expenses			
Consultants	$ 850,000	$ 1,100,000	250,000
Contracts	-	-	-
Office Rent	-	-	-
Office Costs	32,000	41,000	9,000
Professional Services	-	-	-
Computer Purchase & Maintenance	25,000	25,000	-
Furniture & Equipment	-	-	-
Miscellaneous	-	-	-
Contingency	-	-	-
Total Operating Expenses	**$ 907,000**	**$ 1,166,000**	**259,000**
Other Non-Operating Expenses	**$ -**	**$ -**	**-**
Total Expenses	**$ 6,481,457**	**$ 7,358,536**	**877,079**
Change in Assets	**$ -**	**$ (877,079)**	**(877,079)**

Section A – Revised Budget

Statement of Activities
2009 Budget Original Filing, 2009 Revised Budget & Variance
Reliability Assessment and Performance Analysis

	2009 Budget Original Filing	2009 Revised Budget	Variance Over(Under)
Funding			
ERO Assessments	$ 3,540,071	$ 3,540,071	-
Membership Dues	-	-	-
Testing Fees	-	-	-
Services & Software	450,000	450,000	-
Workshops	-	-	-
Interest	-	-	-
Miscellaneous	-	-	-
Total Funding	**$ 3,990,071**	**$ 3,990,071**	**-**
Expenses			
Personnel Expenses			
Salaries	$ 1,967,410	$ 2,055,910	88,500
Payroll Taxes	116,795	123,566	6,770
Benefits	235,033	245,226	10,192
Retirement Costs	275,341	283,896	8,555
Total Personnel Expenses	**$ 2,594,580**	**$ 2,708,598**	**114,018**
Meeting Expenses			
Meetings	$ 184,000	$ 184,000	-
Travel	263,875	271,375	7,500
Conference Calls	10,000	10,000	-
Total Meeting Expenses	**$ 457,875**	**$ 465,375**	**7,500**
Operating Expenses			
Consultants	$ 376,270	$ 376,270	-
Contracts	385,000	385,000	-
Office Rent	-	-	-
Office Costs	54,171	56,171	2,000
Professional Services	-	-	-
Computer Purchase & Maintenance	122,175	122,175	-
Furniture & Equipment	-	-	-
Miscellaneous	-	-	-
Contingency	-	-	-
Total Operating Expenses	**$ 937,616**	**$ 939,616**	**2,000**
Other Non-Operating Expenses	**$ -**	**$ -**	**-**
Total Expenses	**$ 3,990,071**	**$ 4,113,589**	**123,518**
Change in Assets	**$ -**	**$ (123,518)**	**(123,518)**

Section B — 2009 Schedules

2009 Budget Original Filing and 2009 Revised Budget Comparisons

Table 1 – Supplemental Information

Statement of Activities
2009 Budget Original Filing, 2009 Revised Budget & Variance

STATUTORY

	2009 Budget Original Filing	2009 Revised Budget	Variance Over(Under)
Funding			
ERO Assessments	$ 31,925,048	$ 31,925,048	-
Membership Dues	857,572	857,572	-
Testing Fees	980,000	980,000	-
Services & Software	485,000	485,000	-
Workshops	-	-	-
Interest	200,000	200,000	-
Miscellaneous	-	-	-
Total Funding	**$ 34,447,620**	**$ 34,447,620**	**-**
Expenses			
Personnel Expenses			
Salaries	$ 14,426,115	$ 14,957,115	531,000
Payroll Taxes	862,587	903,209	40,622
Benefits	1,612,531	1,673,685	61,154
Retirement Costs	2,014,332	2,065,662	51,330
Total Personnel Expenses	**$ 18,915,565**	**$ 19,599,671**	**684,106**
Meeting Expenses			
Meetings	$ 719,320	$ 719,320	-
Travel	1,736,437	1,848,937	112,500
Conference Calls	188,872	188,872	-
Total Meeting Expenses	**$ 2,644,629**	**$ 2,757,129**	**112,500**
Operating Expenses			
Consultants	$ 4,204,270	$ 4,954,270	750,000
Contracts	3,273,000	3,273,000	-
Office Rent	711,523	711,523	-
Office Costs	886,387	898,387	12,000
Professional Services	1,360,000	1,360,000	-
Computer Purchase & Maintenance	789,750	789,750	-
Furniture & Equipment	265,000	265,000	-
Miscellaneous	4,000	4,000	-
Total Operating Expenses	**$ 11,493,930**	**$ 12,255,930**	**762,000**
Other Non-Operating Expenses	**$ 1,393,496**	**$ 1,393,496**	**-**
Total Expenses	**$ 34,447,620**	**$ 36,006,226**	**1,558,606**
Change in Assets	**$ -**	**$ (1,558,606)**	**(1,558,606)**

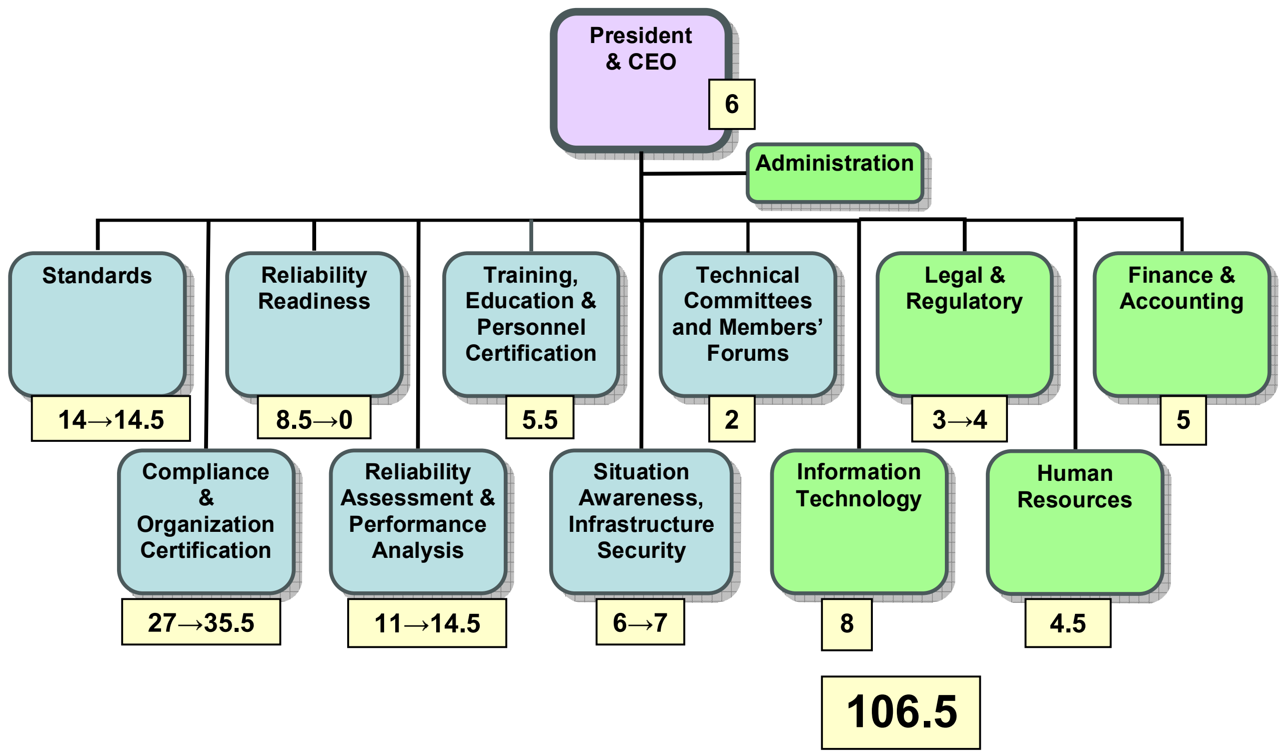
Personnel Analysis

Table 2

Total FTE's by Program Area	2009 Budget Original Filing	Revised Budget 2009	Change from Projection
STATUTORY			
Operational Programs			
Reliability Standards	14.0	14.5	0.5
Compliance and Organization Registration and Certification	31.0	35.5	4.5
Reliability Readiness Evaluation and Improvement	0.0	0.0	0.0
Training and Education	5.5	5.5	0.0
Reliability Assessment and Performance Analysis	13.5	14.5	1.0
Situational Awareness and Infrastructure Security	7.0	7.0	0.0
Total FTEs Operational Programs	**71.0**	**77.0**	**6.0**
Administrative Programs			
Member Forums	2.0	2.0	0.0
General & Administrative	6.0	6.0	0.0
Information Technology	8.0	8.0	0.0
Legal and Regulatory	4.0	4.0	0.0
Human Resources	4.5	4.5	0.0
Accounting	5.0	5.0	0.0
Total FTEs Administrative Programs	**29.5**	**29.5**	**0.0**
Total FTEs	**100.5**	**106.5**	**6.0**

2009 Revised Organizational Chart

Table 4



Reserve Analysis 2008–2009 Revised

Table 5

Working Capital Reserve Analysis 2008-2009	
STATUTORY	
Beginning Working Capital Reserve (Deficit), December 31, 2007	559,179
Plus: 2008 ERO Funding (from LSEs or designees)	25,694,031
Plus: 2008 Other funding sources (Cash basis)	2,283,000
Less: '2008 Projected expenses & capital expenditures (Cash basis)	(27,165,561)
Projected Working Capital Reserve (Deficit), December 31, 2008	**1,370,648**
Working Capital Reserve, December 31, 2009	941,394
Less: Projected Working Capital Reserve, December 31, 2008	(1,370,648)
Increase(decrease) in assessments to achieve Working Capital Reserve	(429,254)
2009 Assessment for Expenses and Capital Expenditures, excluding Working Capital Reserve (Cash basis)	34,876,875
Less: Other Funding Sources (Cash Basis)	(2,522,572)
Adjustment to Working Capital Reserve	(429,254)
2009 Assessment	31,925,048

ATTACHMENT 2

NERC COMPLIANCE MONITORING AND ENFORCEMENT

AND ORGANIZATION REGISTRATION PROGRAM STAFFING

Compliance Monitoring and Organization Registration Program

Budget 2009 Original Filing

Administration	3.0
Regional Entity CMEP Oversight	12.0
Compliance Program Interfaces	4.0
Reporting, Analysis and Tracking	4.0
Enforcement and Mitigation	4.0
Organization Registration, Certification & Monitoring	4.0
Total FTEs CMEP Program	**31.0**

Program Reorganization- Post 2009 Budget Filing

Administration	3.0
Compliance Violation Investigations (formerly RE CMEP Oversight)	7.0
Compliance Program Audits (formerly Interfaces)	9.0
Reporting, Analysis and Tracking	4.0
Enforcement and Mitigation	4.0
Organization Registration, Certification & Monitoring	4.0
	31.0

2009 Revised Budget

Administration	3.5
Compliance Violation Investigations (formerly RE CMEP Oversight)	11.0
Compliance Program Audits (formerly Interfaces)	9.0
Reporting, Analysis and Tracking	4.0
Enforcement and Mitigation	4.0
Organization Registration, Certification & Monitoring	4.0
	35.5

ATTACHMENT 3

OUTSTANDING ALLEGED VIOLATIONS,

MITIGATION PLANS AND NOTICES OF PENALTY

STATUS, PLANS AND SCHEDULES

Outstanding Alleged Violations, Mitigation Plans, and Notices of Penalty
<u>Status, Plans and Schedules</u>

I. Introduction

Paragraph 28 of the 2009 ERO Budget Order directs NERC to provide "a meaningful plan and schedule for processing outstanding alleged violations, mitigation plans, [and] notices of penalty." The plans and schedules for addressing outstanding alleged violations, mitigation plans, and notices of penalty are presented in this Attachment 3.

Section II below describes NERC's normal activities to review, track and process outstanding alleged violations and mitigation plans. Section III below summarizes the plans and schedules developed by the Regional Entities to address outstanding alleged violations, mitigation plans and notices of penalty. For purposes of this compliance filing, alleged violations discovered subsequent to July 1, 2008 are considered part of normal, current workload, while items considered as non-current workload are those alleged violations for which the date of discovery was prior to July 1, 2008 and for which a notice of confirmed violation has not been completed. Further, this response includes only alleged and confirmed violations occurring in the United States, and treats alleged violations subject to ongoing settlement negotiations as part of normal, current workload. Attachments 3A through 3H present the status of each Regional Entity's processing of outstanding alleged violations, mitigation plans and notices of penalty and each Regional Entity's plan and schedule for reducing the number of outstanding alleged violations, mitigation plans and notices of penalty. Finally, Section IV below describes NERC's efforts to prioritize work and provide direction to the Regional Entities regarding their efforts to reduce the numbers of outstanding of outstanding alleged violations, mitigation plans and notices of penalty.

II. Normal NERC Activities to Review, Track and Process Violations and Mitigation Plans

All alleged violations in the United States are reported to NERC by the Regional Entities. NERC staff reviews these reports for errors and then submits the report of alleged violation confidentially to the Commission. As the Regional Entity's efforts to confirm and process the alleged violation progresses, NERC staff tracks the progress and submits additional reports to the Commission at various stages, using the information provided by the Regional Entity. These additional reports include notices of completed settlement discussion, notices of alleged violation and proposed penalty and sanction (as issued to the Registered Entity), and notices of hearings if an alleged violation is disputed by the Registered Entity. The status of each alleged violation is provided in a monthly report to the NERC Board of Trustees Compliance Committee (BOTCC). NERC also provides a quarterly report to the Commission that reports on the status of each alleged violation. The most recent report, covering the third quarter of 2008, was submitted to the Commission on November 17, 2008.

NERC processes a mitigation plan to address each alleged violation of a Reliability Standard. The mitigation plan is developed by the Registered Entity named in the notice of alleged violation and is reviewed by the Regional Entity to determine if it is adequate to correct the alleged violation and prevent recurrence. After the mitigation plan is accepted by the Regional Entity, it is submitted to NERC for review. NERC staff reviews the mitigation plan and within 30 days either approves the mitigation plan and submits the approved mitigation plan to the Commission in the United States, or remands the mitigation plan to the Regional Entity, identifying changes necessary for NERC to approve the mitigation plan. NERC staff reviews each mitigation plan for completeness and adherence to the requirements of the NERC uniform Compliance Monitoring and Enforcement Program (CMEP - Attachment 4C to the NERC Rules of Procedure), to determine if the mitigation plan meets the objectives of correcting the alleged violation in a timely manner, and to determine if the mitigation plan includes all information required by §6.2 of the CMEP.

Once a violation has been confirmed by the Regional Entity as established by the CMEP processes, the Regional Entity submits a Notice of Confirmed Violation (NOCV) or a settlement agreement to NERC. NERC then reviews NOCV and the record provided by the Regional Entity for accuracy and completeness. If the record is accurate and complete, NERC staff prepares a review for the NERC BOTCC. The BOTCC reviews the record and the enforcement action taken, as well as the status of mitigation of the violation. Based on the record and the enforcement action, the BOTCC decides whether to approve the item and authorize filing a Notice of Penalty with the Commission (in the U.S.), seek clarifying or additional information from the Regional Entity, or remand the matter back to the Regional Entity.

NERC's 2009 Business Plan and Budget includes a staff of 8 FTE dedicated to reviewing, tracking and processing alleged violations, mitigation plans and notices of penalty. This staffing is split between two groups (Reporting, Analysis and Tracking – 4 FTE, and Enforcement and Mitigation – 4 FTE), that conduct this violation processing and tracking work for NERC. In addition, 2 administrative personnel support this activity. At the present time, NERC believes this staffing level is adequate to complete the current on-going workload of processing violations as well as the increased workload to be expected as the Regional Entities reduce their numbers of outstanding alleged violations, mitigation plans and notices of penalty. However, as the Regional Entities process their outstanding alleged violations, mitigation plans, and notices of penalty in accordance with the plans and schedules described in the next section and Attachments 3A through 3H, NERC will reassess its commitment of resources to these activities to ensure timely processing.

III. Regional Entity Plans and Schedules to Reduce Numbers of Outstanding Alleged Violations, Mitigation Plans and Notices of Penalty

In response to P 28 of the 2009 ERO Budget Order, each Regional Entity submitted to NERC a status report on outstanding alleged violations, mitigation plans and notices of penalty and a plan and schedule to address the Regional Entity's outstanding alleged violations, mitigation plans, and notices of penalty. Attachments 3A through 3H provide the individual Regional Entity status reports, plans and schedules.

The Regional Entity responses include their approaches to addressing the outstanding alleged violations, mitigation plans and notices of penalty taking into account conditions unique to their respective situations. The numbers of violations, mitigation plans, and notices to be processed varied widely among the Regional Entities. Based on its review of the Regional Entity status reports, plans and schedules, NERC believes the volumes of alleged violations moving from each stage in the process to the next, and ultimately to confirmed violation or settlement agreement status, will increase significantly in the next several months.

Elements of particular note in the Regional Entity plans include the following items.

- Efforts to prioritize the most important violations for more expedited processing and attention. At times, these violations take longer to investigate, analyze and process due to their complexity.
- The plans include analyses or descriptions of the Regional Entity resources (staff and consultants) assigned to work on the outstanding alleged violations and mitigation plan. Some also include adding resources in 2009.
- Resource plans include the use of extended work hours, hiring consultants, and engaging attorneys.
- Specific tracking of the length of time alleged violations are in each stage of the overall process.

IV. NERC's Initiatives for Reducing the Outstanding Alleged Violations, Mitigation Plans and Notice of Penalty

In early November 2008, NERC launched a special project, led by a senior manager, to facilitate and expedite the completion of a subset of existing alleged violations, specifically, the oldest, priority alleged violations. This project entails working closely with each Regional Entity to clear the oldest, priority violations. Addressing the Regional Entity outstanding items from this perspective allows NERC and the Regional Entities to focus resources on higher value activities, speed up processing of alleged violations, and identify process improvements that will increase efficiency in the future. The project plan identifies priority alleged violations; the goal is to complete processing of these alleged violations within six to eight weeks.

As of December 8, 2008, NERC is processing 30 settlements or NOCVs addressing 87 violations. All of these cases were received by NERC after June 30, 2008. These settlements and NOCVs will be processed by existing Compliance and Legal staff at an expected rate of about 5 to 10 per week depending on the complexity of each case. Thus, NERC expects all of the settlements and Notices of Penalty for these cases to be filed with the Commission by the end of February 2009. With respect to settlements and NOCVs yet to be received from the Regional Entities as they implement their plans to reduce the number of outstanding alleged violations, NERC believes it has adequate Compliance staff to process these items as they are received at a more rapid rate. As described in §III.A.2 of the narrative compliance filing, NERC now plans to add 0.5 FTE staff in its CMEP to supplement existing Legal staff and assist with preparation of documents to be filed with regulatory agencies relating to violations, mitigation plans and notices of penalty.

Attachment 3A
FRCC

Florida Reliability Coordinating Council (FRCC) is providing this status report of enforcement actions under the NERC Compliance Monitoring and Enforcement Program. This status report was requested by NERC as part of its planned response to the Commission's 2009 ERO Budget Order.

Part A – Regional Entity Workload

Current Workload (Alleged Violations discovered from July 1 to December 1, 2008)

From July 1, 2008 to December 1, 2008, FRCC has reported eight (8) alleged violations to NERC. Notices of Alleged Violation and Proposed Penalty or Sanction for these 8 alleged violations have not been issued to the Registered Entities.

Non-Current Workload

Alleged Violations discovered prior to June 18, 2007

FRCC has 122 outstanding alleged violations as of NERC's latest quarterly report to the Commission on the status of alleged violations (submitted November 17, 2008). This included 75 alleged violations for which notification of completion has been received by the Registered Entity. Since the November 17, 2008 report, FRCC has reviewed evidence and verified completion of the mitigation plans for sixteen (16) of these alleged violations and has dismissed another three of these alleged violations. (A Regional Entity may dismiss a possible or alleged violation if, after further investigation and fact-finding is completed, the Regional Entity determines there was not a violation of a Reliability Standard.)

Alleged Violations discovered from June 18, 2007 to December 31, 2007

FRCC has twenty-six (26) alleged violations in this period for which Notices of Alleged Violation and Proposed Penalty or Sanction have not been issued. In addition, FRCC has twenty-one (21) violations in this period for which the Notices of Alleged Violation and Proposed Penalty or Sanction have been issued and the violations have been confirmed; however, a Notice of Confirmed Violation and Proposed Penalty or Sanction has not been issued by FRCC.

Alleged Violations discovered from January 1, 2008 to June 30, 2008

FRCC has five (5) alleged violations in this period for which Notices of Alleged Violation and Proposed Penalty or Sanction have not been issued. In addition, FRCC has two (2) alleged violations in this period for which the Notices of Alleged Violation and Proposed Penalty or Sanction has been issued and the violation has been confirmed, however, a Notice of Confirmed Violation and Proposed Penalty or Sanction has not been issued by FRCC.

Part B – Regional Entity Work Plan to Address Non-Current Workload

Schedule for Completion of Processing

		2008		2009			
Item #	**Compliance Activity Required**	**Nov**	**Dec**	**Jan**	**Feb**	**Mar**	**Total**
1	Pre-June 18th Unmitigated Violations	15	1	18	65	23	122
2	NAVAPS*	1	0	12	12	6	31
3	NCVPS+	1	0	8	10	3	22

*Notice of Alleged Violation and Proposed Penalty or Sanction

+Notice of Confirmed Violation and Penalty or Sanction

Resources

FRCC has one vacant Compliance Auditor position that was budgeted for 2008. FRCC has made an employment offer to fill the remaining vacant auditor position for 2008. This person started on December 8, 2008. In addition, interviews are underway to fill 2 vacant Compliance Auditor positions budgeted for 2009. FRCC is attempting to fill these positions in 2008 if qualified candidates are found.

In addition, SERC has agreed to support FRCC in its efforts to complete the processing of its pre-June 18, 2007 mitigation plans. SERC staff will review mitigation plans and associated closeout evidence for approximately 25 plans covering alleged violations of approximately 65 separate Reliability Standard requirements. A specific team has been designated to accomplish this task with a target completion of February 2009.

Work Plan Summary

Most of FRCC's efforts to reduce the number of outstanding items have been focused on completion of mitigation plans associated with pre-June 18, 2007 violations. Highest priority in this effort was given to alleged violations of the higher risk standards (e.g. PRC-005 and FAC-003) as well as those alleged violations that could be closed out most quickly. Three FRCC auditor/engineers and the Compliance Manager have been working Saturdays (12 since September) to expedite this effort. In addition to the overtime work, on-site verification of evidence for completion of mitigation plans was done at two different Registered Entity sites (2 auditors/2 days each) to expedite review. These two Registered Entities were chosen as they had the greatest numbers of mitigation plans. Further, NERC has provided at least 4 members of its compliance staff on several different occasions to help process the mitigation plans. Finally, as noted above, SERC has agreed to help with the FRCC mitigation plan review and verification, and a process and schedule are currently being developed. The target date for completion of the set of mitigation plans SERC will work on (approximately 63 violations) is the end of February 2009.

Several of the outstanding Notices of Alleged Violation and Proposed Penalty or Sanction and Notices of Confirmed Violation and Penalty or Sanction have been drafted, but need to be revised to fit new templates supplied by NERC. In addition, FRCC is awaiting identification of confidential information from two Registered Entities to complete the supplemental record information for a NCVPS required to comply with the Commission's July 3, 2008 Order.

There is very little time in the remainder of December to work on reducing the outstanding alleged violations, mitigation plans and notices of penalty due to ongoing spot check commitments and a major compliance audit in December, along with the holidays. However, with the aid from SERC and the filling of the budgeted Compliance Auditor positions it is anticipated that the non-current items can be eliminated per the above schedule.

Attachment 3B
<u>MRO</u>

Midwest Reliability Organization (MRO) is providing this status report of enforcement actions under the NERC Compliance Monitoring and Enforcement Program. This status report was requested by NERC as part of its planned response to the Commission's 2009 ERO Budget Order, and includes only information regarding alleged violations by U.S. Registered Entities.

Part A – Regional Entity Workload

Current Workload (Alleged Violations discovered from July 1 to December 1, 2008)

From July 1, 2008 to December 1, 2008, MRO has reported 12 alleged violations to NERC. These 12 alleged violations involve 6 Registered Entities. (NERC's quarterly report dated November 17, 2008 does not include 2 alleged violations that were subsequently reported to NERC on December 1, 2008 and are included in MRO's total of 12.) These violations comprise MRO's current outstanding violations or workload for processing of alleged violations. Three of these 12 alleged violations are the subject of settlement discussions with 1 Registered Entity. Notices of Alleged Violation and Proposed Penalty or Sanction are currently being drafted and will be issued for the other 9 violations before December 31, 2008. Seven of these 9 alleged violations were self-reported; the remaining 2 alleged violations resulted from MRO's annual Self-Certification which ended October 24, 2008.

Non-Current Workload

Alleged Violations discovered prior to June 18, 2007

MRO has no outstanding pre-June 18, 2007 alleged violations or mitigation plans.

Alleged Violations discovered from June 18, 2007 to December 31, 2007

MRO has no outstanding Notices of Alleged Violation or Proposed Penalty or Sanction for 2007. In addition, mitigation plans for all 2007 violations have been completed and verified by MRO.

Notice of Penalty is pending for 29 confirmed violations (Notices of Confirmed Violations are completed by MRO). NERC identified these violations in its request for Supplemental Record Information in response to the Commission's Order of July 3, 2008. The requested Supplemental Record Information has been submitted for the 29 confirmed violations. NERC has requested clarification on 3 of the 29 confirmed violations, and MRO is currently working with NERC to finalize the record with regard to these confirmed violations.

Alleged Violations discovered from January 1, 2008 to June 30, 2008

Between January 1, 2008 and June 30, 2008, MRO reported 6 alleged violations to NERC. Notice of Alleged Violation and Proposed Penalty or Sanction has not been issued for 2 of these violations involving 1 Registered Entity. Notices of Confirmed Violation have not been issued for 3 of these 6 violations, involving 2 Registered Entities. Two of the 3 confirmed violations were the subject of settlement discussions which were resolved in November when the Registered Entity formally accepted the Notice of Alleged Violations and Proposed Penalty or Sanction.[1] The remaining alleged violation is currently the subject of settlement.[2] MRO anticipates an agreement will be finalized by the end of 2008. Additionally, mitigation plans have been accepted, completed and verified for 4 of these 6 violations.

<u>Part B – Regional Entity Work Plan to Address Non-Current Workload</u>

<u>Schedule for Completion of Processing</u>

MRO anticipates accomplishing the following by December 31, 2008 with regard to its 6 outstanding violations:

1. Issuing Notices of Confirmed Violation for 3 violations;
2. Issuing Notices of Alleged Violation and Proposed Penalty or Sanction for 2 violations; and
3. Finalizing a Settlement Agreement for 1 violation.

MRO has identified responding to NERC's supplemental information requests regarding the pending Notices of Penalty as the highest priority. Currently, MRO is gathering additional information to respond to NERC's questions on 3 violations involving 2 Registered Entities.

<u>Resources</u>

MRO is fully staffed as of the date of this report. For 2009, MRO plans to add one additional employee to its enforcement staff.

MRO has six independent consultants on contract available to assist with compliance, enforcement, and other matters as needed. Each consultant is subject to the same conflict of interest and confidentiality rules as MRO employees. Although the consultants have been used sparingly, for Compliance Violation Investigations, protection system evaluation, and training, they are available for workload peaks on other compliance and enforcement matters.

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[1] NERC's quarterly report dated November 17, 2008 does not include the 2 confirmed violations that were the subject of settlement discussions. As the Notice of Alleged Violation and Proposed Penalty or Sanction was accepted by the Registered Entity on November 10, 2008, the Notice of Confirmed Violation should actually be considered current workload.

[2] This alleged violation is reflected on NERC's quarterly report dated November 17, 2008 in Table 1: Number of Violations without NAVAPS Received between 201-300 days. As this alleged violation is the subject of settlement discussions, it should not be included in Table 1 of the report.

Attachment 3C
NPCC

Northeast Power Coordinating Council (NPCC) is providing this status report of enforcement actions under the NERC Compliance Monitoring and Enforcement Program. This status report was requested by NERC as part of its planned response to the Commission's 2009 ERO Budget Order.

Part A – Regional Entity Workload

Current Workload (Alleged Violations discovered from July 1 - November 19, 2008)

NPCC has 40 alleged violations in this category. They are in the following stages:

Four alleged violations related to CIP-001-1 are currently having the Notice of Confirmed Violation (NOCV) prepared. The NOCV is scheduled to be issued by December 5, 2008.

Twelve alleged violations related to CIP-001-1 are currently in the final stages of settlement and it is anticipated that the final settlement agreement will be signed off by December 19, 2008.

Two alleged violations related to FAC-003-1 are non-enforceable (occurred in Canadian provinces with no memorandum of understanding in place). However, NPCC is still processing these violations and is currently preparing a Notice of Alleged Violation (NOAV) to be distributed to the Registered Entity. The NOAV is scheduled to be sent during the week of December 8, 2008.

Two alleged violations related to FAC-003-1 are currently in settlement negotiations.

Two alleged violations are related to PRC-005-1 and the Registered Entity has been issued a NOAV. NPCC is awaiting response to this NOAV. The thirty-day response period has not yet expired.

Three alleged violations are related to VAR-002-1 and are currently in settlement negotiations.

One alleged violation related to VAR-002-1 is being reviewed. Resolution of this alleged violation is scheduled by December 12, 2008.

Seven alleged violations are related to PRC-005-1 and have been issued a preliminary NOAV (pNOAV), and work has begun on the development of a NOAV related to this violation.

Seven alleged violations are related to CIP-001-1 and have been issued a pNOAV, and work has begun on the preparation of the NOAV.

Non-Current Workload

Alleged Violations discovered prior to June 18, 2007

None.

Alleged Violations discovered from June 18, 2007 to December 31, 2007

None.

Alleged Violations discovered from January 1, 2008 to June 30, 2008

None.

NPCC has “closed” all other alleged violations (22) that have been identified since the inception of the CMEP on June 18, 2007. Eight of these have been dismissed, 12 have had Notices of Penalty issued by the Commission, one violation has been settled and one has had a NOCV approved by NERC.

Part B – Regional Entity Work Plan to Address Non-Current Workload

Currently NPCC has no non-current workload associated with the processing of its alleged violations. Each of the outstanding alleged violations summarized above under Current Workload is moving through the process and these alleged violations are in the various stages as described above.

NPCC continually is looking to improve and expedite the violation review process.

Attachment 3D
<u>Reliability*First*</u>

Reliability*First* Corporation (Reliability*First*) is providing this status report of enforcement actions under the NERC Compliance Monitoring and Enforcement Program. This status report was requested by NERC as part of its planned response to the Commission's 2009 ERO Budget Order.

<u>Part A – Regional Entity Workload</u>

<u>Violations</u>

As of October 31, 2008, Reliability*First* had processed reports of 223 Post-June 18, 2007 possible violations received through the various monitoring methods (e.g., self-reports, audits, self-certifications). Of the 223 possible violations, 118 (from a total of 2 Registered Entities) were deemed by Reliability*First* (after an extensive review consuming the equivalent of 0.5 FTE in 2008) to have insufficient basis for moving forward through the enforcement process. A total of 105 possible violations (from a total of 34 Registered Entities) were deemed by Reliability*First* to have sufficient basis to move forward as alleged violations and have entered into the Notice process. Two possible violations were still under review on October 31, 2008.

Notices of Confirmed Violation have been issued for 12 alleged violations. A Settlement Agreement has been entered into with 2 Registered Entities for a total of 3 alleged violations. A total of 11 alleged violations were subsequently dismissed or deemed non-enforceable. The majority (48) of the balance (79) of the alleged violations still to be processed are in the active settlement discussion or negotiation state. For the 79 alleged violations still requiring processing, Reliability*First* expects to have all (except for those violations in a contested hearing proceeding) listed below closed at the Regional Entity level by July 1, 2009.

Outstanding Violation Status [By Discovery Date]	# Violations (# of Entities)
Pre-June 18, 2007	**0 (0)**
June 18, 2007 to December 31, 2007	**26 (3)**
January 1, 2008 to June 30, 2008	**23 (11)**
July 1, 2008 to November 1, 2008	**30 (15)**

<u>Mitigation Plans</u>

Reliability*First* believes mitigation plans are being timely filed (in fact well before a mitigation plan is required to be filed) by Registered Entities and are being accepted, approved, tracked to completion and finally verified in an organized, efficient manner.

Mitigation Plan Status	**# Violations (# of Entities)**
	June 18, 2007 To Date
Accepted by Reliability*First*	**55 (26)**
Approved by NERC	**46 (20)**
Reported as Complete by Entity	**36 (16)**
Verified As Complete by Reliability*First*	**27 (11)**
Entity Certified Complete but FAILED Verification by Reliability*First*	**1 (1)**

<u>Part B – Regional Entity Work Plan to Address Non-Current Workload</u>

<u>Outstanding Violation Reduction Schedule</u>

A detailed schedule is included below indicating the expected dates for resolution of alleged violations. For the alleged violations discovered in 2007, two of the 26 outstanding alleged violations will be resolved by the filing of Notices of Confirmed Violation by the end of January 2009. The remaining 24 alleged violations from 2007 are part of a larger group of alleged violations, all involving one Registered Entity, that are the subject of on-going settlement discussions. A schedule for the outstanding 2008 alleged violations is given below.

Outstanding Violation Resolution Anticipated Schedule [By Discovery Date]	**# Violations (# of Entities)**	**2009 [By Violation]**						
		Jan.	**Feb.**	**Mar.**	**Apr.**	**May**	**June**	**July**
Pre-June 18, 2007	**0 (0)**							
June 18, 2007 to December 31, 2007	**26 (3)**	**2**				**24**		
January 1, 2008 to June 30, 2008	**23 (11)**			**4**	**3**	**8**	**8**	
July 1, 2008 to November 1, 2008	**30 (15)**		**1**		**6**	**10**	**13**	

The above schedule assumes settlement agreements are entered into with the Registered Entities currently in settlement discussions. The schedule estimates the number of Notices of Alleged Violation that will need to be issued and the time line for response by the Registered Entity for any Notice of Alleged Violation issued. However, if a Registered Entity contests an alleged violation, this will likely prevent resolution of the alleged violation within the above schedule.

<u>Specific Work Plan</u>

A typical workflow at Reliability*First* for a possible violation uncovered by any of the eight compliance monitoring processes is:

1. Receipt of the violation initiating document (e.g. self-report, audit team report, etc.).

2. Initial assessment as to validity and immediate reliability impact or risk (typically within 48/72 hours, often involving a phone conference with the Registered Entity).

3. Quick initial written information request to Registered Entity to determine preliminary scope and breadth of violation(s) and confirm reliability risk assessment (typically issued within 1 to 2 weeks of receipt of the violation initiating document, typically 3 to 10 questions; response expected within 1 week of issuance).

4. Detailed written information request (typically issued after review of initial information submittal or within 1 month of violation initiating document, may contain 10 to 50 questions; response due date depends on complexity of violation and need for questions, typically 30 days after receipt of request).

5. Review of information response (typically hundreds of pages of documents), determination of violation scope and duration, calculation of penalty and drafting of Notice of Alleged Violation (typically 30 to 60 days after receipt of detailed information).

6. Mitigation plan review and acceptance process (can occur anywhere within the above steps; mitigation plans are only accepted after sufficient facts regarding cause, breadth and scope of violation(s) are known).

7. Settlement discussions and negotiations (can occur anywhere within the above steps; settlement discussions are only held after sufficient facts regarding cause, breadth and scope of violation(s) are known, and once initiated will typically toll the time in which the next enforcement step is due; the duration for such effort is typically 2 to 3 months).

8. Mitigation plan milestone tracking and completion verification (after Registered Entity certification of completion of mitigation plan; may take 30 days to complete).

9. Issuance of Notice of Confirmed Violation and Final Record (typically takes 30 days to draft, compile, and issue from the time the Notice of Alleged Violation is accepted or mitigation plan is verified complete).

Barring Registered Entity response delays or complications such as a contested proceeding or protracted settlement negotiations beyond Reliability*First's* control, Reliability*First* strives to follow the time guidelines above, and will continue to process all new violations from initiation to completion (i.e., the filing of a terminating document with NERC) within reasonable and acceptable time frames.

Resources

At the start of 2008, Reliability*First* enforcement activities were handled within its Compliance department by 2 Engineers/Consultants and 0.5 FTE Administrative Assistant. By the end of 2008, and with the establishment of the Reliability*First* Enforcement Group and a more than doubling of the number of staff assigned to this area, the following personnel are presently responsible for all enforcement-related activities within Reliability*First*:

1 Manager of Compliance Enforcement (with electrical engineering and law degrees)

2 Compliance Enforcement Specialists (degreed attorneys)

2 Engineers/Consultants

1 Paralegal Assistant

1 Administrative Assistant

1 Outside Contractor (Mitigation Plan Verification)

Plus Outside Counsel for Settlement Agreement/Notice drafting overflow

Reliability*First* has instituted the Case Manager/Technical Resource team approach to violation and mitigation plan processing. A Case Manager (either the Manager of Enforcement or one of the Compliance Enforcement Specialists) is assigned to each violation and is responsible for the overall enforcement action as it relates to proper and timely issuance of notices and the successful resolution of the issue. The Technical Resource aids the Case Manager in the fact-finding portion of the enforcement action as well as in the evaluation of proposed mitigation plans and the review of evidence of completion of the accepted and approved mitigation plans.

The organization and expansion of staff, development of Case Manager/Technical Resource teams, and the definition of typical work flows has aided Reliability*First* in the effort to be efficient, effective, thorough, and fair in the processing of enforcement related issues. As this structure takes hold, improvements will be seen in all phases of processing.

Areas for Further Improvement

The three remaining processing areas at Reliability*First* in need of improvement are document management, processing of minor infractions, and streamlining the settlement discussion/agreement process.

To address the document management issue, Reliability*First* is in the process of developing and implementing a Document and Docket Management computer system that will aid its staff in acquiring, sorting, and storing documents pertinent to all enforcement actions, and assist in assembling the appropriate documents that need to be compiled for a full and complete record and the drafting of the various notices. In addition, the system will support docket management as it relates to electronic filing of documents throughout the enforcement process including during a Regional Entity hearing. The first phase of this computer system will be rolled out by the end of 2008, with the balance of the system deployed in 2009.

Another significant area for improvement pertains to settlement agreements. Experience has shown that settlement negotiations and subsequent settlement agreement drafting are taking an inordinate amount of time. Reliability*First*, in an effort to address this problem, has created a document entitled "Settlement Guidelines," to clearly communicate expectations to the Registered Entity at the beginning of the discussions, bring clarity to the logistics, and define a date certain (typically 60 days) by which a Settlement Agreement, or substantial progress towards such an Agreement, is expected in order for settlement discussions to continue.

The third area for improvement is in the area of the processing of minor infractions, without all of the present violation processing steps. An initial approach could be a "short form" settlement agreement identifying the deficiency, the details of a corrective action plan to be tracked by the Regional Entity to closure to mitigate the infraction, and any nominal monetary penalty if appropriate. Such a "short form" settlement agreement could be offered to the Registered Entity early in the process with a "take it as written" admonition for immediate acceptance or rejection without further negotiation or modification. This approach could be applied to at least 50% of the existing alleged violations. Development of this approach is being worked on collaboratively by the eight Regional Entities.

Reliability*First* believes that with these procedural, organizational, and staffing improvements, along with the development of its Document and Docket Management computer system, the time frames for processing violations and completing enforcement actions will be reduced significantly.

Attachment 3E
SERC

SERC Reliability Corporation (SERC) is providing this status report of enforcement actions under the NERC Compliance Monitoring and Enforcement Program. This status report was requested by NERC as part of its planned response to the Commission's 2009 ERO Budget Order.

Part A - Regional Entity Workload

The information below describes the status of SERC's regional workload and outstanding alleged violations and mitigation plans as of December 3, 2008.

Current Workload (Alleged Violations discovered from July 1 to December 3, 2008)

Eighty-one (81) possible alleged violations (PAVs) of Reliability Standard requirements were identified from July 1, 2008 to December 3, 2008. Staff work is ongoing to complete determinations for 44 of the PAVs and is progressing as expected. Of the 37 completed determinations, there have been eight dismissals and 29 instances where sufficient basis exists to allege a violation. Requests for settlement have been received for five of the above alleged violations. It is expected that settlements will be used to address the majority of the valid alleged violations. Proposed mitigation plans associated with 30 of the PAVs have been received from Registered Entities and are undergoing staff review.

Non-Current Workload

Alleged Violations discovered prior to June 18, 2007

Two pre-June 18, 2007 approved mitigation plans are actively being implemented by the respective Registered Entities and have not yet reached the agreed end dates. These specific mitigation plans were of longer duration due to specific circumstances, are progressing per expectations, and will be validated by SERC staff at completion. All other pre-June 18, 2007 mitigation plans have been certified as complete by the Registered Entities and validated as satisfactory by SERC staff, with two exceptions. In those two cases, staff determined the Registered Entities did not complete the mitigation plans as agreed. These two cases were converted to new 2008 enforceable violations and prosecuted with penalties. Associated settlement agreements have since been approved by SERC and by the NERC BOTCC and are awaiting filing with the Commission.

Alleged Violations discovered from June 18, 2007 to December 31, 2007

The majority (approximately 70) of SERC's enforceable violations discovered from June 18 to December 31, 2007 were approved by the Commission in its July 3, 2008 Order accepting Notices of Penalty (NOP). All mitigation activities with those 70 NOPs are complete. Ten remaining SERC Regional Notices of Confirmed Violation (NOCV) addressing 13 separate violations have been approved by the NERC BOTCC. For these 10 NOCV, SERC has provided supplemental information as required by the Commission's July 3, 2008 Order. Any remaining actions to supplement these NOCVs will be complete in December 2008, and when approved by NERC will be filed with the Commission. Mitigation activities for two of the 13 confirmed violations are undergoing SERC staff closeout review. Two settlements involving penalties have been approved by SERC and submitted to NERC. One of these settlements has been approved by the NERC BOTCC and is pending Notice of Penalty filing with the Commission. Mitigation plan activities associated with the alleged violations in both settlements have been completed.

Alleged Violations discovered from January 1, 2008 to June 30, 2008

Eighty-one (81) possible alleged violations of Reliability Standard requirements were identified from January 1, 2008 to June 30, 2008. SERC staff has completed its determinations of whether to allege a violation in 75 of 81 cases. Of the 75 completed determinations, there have been 16 dismissals and 59 instances where sufficient basis exists to allege a violation. Settlement negotiations addressing about one-half of the valid alleged violations are currently in-progress. Ten SERC-approved settlement agreements covering over 20 separate violations have been submitted to NERC for review and approval by the NERC BOTCC and submission to the Commission. It is expected that settlements will be used to address the majority of the remaining valid alleged violations.

As of December 3, 2008, about one-third of SERC's total 2008 violations, have been open for more than 100 days since they were first identified and reported to NERC. In each case, associated complications have extended the processing time for these actions including an ongoing compliance violation investigation, consolidation of multiple violations into a common settlement pertaining to the same Registered Entity, challenges to jurisdiction, and hurricane impacts on the Registered Entities. These longer-duration issues have been flagged for particular focus in SERC's efforts to complete processing of open enforcement actions.

Mitigation plans associated with six valid alleged violations have been completed through SERC staff closeout reviews. Mitigation plans covering 16 additional valid alleged violations, several involving settlement, are undergoing staff closeout reviews that are near completion. Mitigation plans addressing alleged violations of 41 separate requirements have been approved by SERC and have either not yet reached agreed end dates or not completed closeout reviews. These mitigation plans will require ongoing SERC staff monitoring and future closeout reviews.

The following table summarizes the overall SERC outstanding alleged violation and mitigation plan inventory as of December 3, 2008:

Item #	Compliance Activity Required	# Violations
1	Pre-June 18th 2007 Unmitigated Violations	2*
2	2008 Mitigation Plan Acceptances	32
3	2008 Mitigation Plan Monitoring Closeout Reviews	100
4	NAVAPS#	32
5	NCVPS+ and Settlements	100**
6	Supplemental Documentation	13***

#Notice of Alleged Violation and Proposed Penalty or Sanction

+Notice of Confirmed Violation and Penalty or Sanction

*One of the Pre-June 18 Mitigation Plans has an end date of 12/31/08. The other has an end date of June, 2009 (due to nuclear plant scheduled outage)

** Includes settlements in process which typically do not have NAVAPS and the settlement itself takes the place of the NCVPS. Numbers reflect alleged violations addressed per requirement with an estimate of 5 requirements per settlement on average.

*** Reflects 2007 Post-June 18 violations already submitted to NERC prior to July 3, 2008 for which NERC required additional information in order to submit Notice of Penalty to the Commission.

NOTE: Violations indicated above on a per requirement basis; most settlements, NAVAPS and NCVPS and will address multiple violations (on average approximately 3 to 5).

<u>Part B – Regional Entity Work Plan to Address Non-Current Workload</u>

<u>Schedule for Completion of Processing</u>

The remaining outstanding non-current work related to PAVs and mitigation plans as of December 3, 2008, as described above, are projected for completion by close of the second quarter 2009 with the exception of closeout reviews for a few longer-duration mitigation plans, based on the following assumptions:

1. SERC's Board Compliance Committee will meet monthly through mid-year 2009 to accommodate SERC approvals and mitigation plan acceptances.
2. Three settlements approved by SERC per month in each of the next seven months.
3. Four mitigation plans accepted by SERC per month for the next eight months.
4. Approximately two FTEs (4000 manhours) to complete settlements
    - 20 settlements estimated to address, on average, five separate violations each (violations are tracked on a "per requirement" basis)

- 200 manhours on average to complete each settlement

5. Approximately 1.5 FTE (3000 manhours) to complete mitigation plans
    - 33 mitigation plans, each covering, on average, four violations
    - Acceptance reviews require 25 manhours per plan
    - Ongoing monitoring requires 25 manhours per plan
    - Closeout reviews require 50 manhours per plan

6. FRCC mitigation plan completion assistance will require 2000 manhours (equivalent to 1.0 FTE) (see Attachment 3A).

The following table summarizes SERC's schedule for reducing its outstanding violations:

		2008	2009					
Item #	**Compliance Activity Required**	**Dec**	**Jan**	**Feb**	**Mar**	**Apr**	**May/ Later**	**Total**
1	Pre-June 18th 2007 Unmitigated Violations		1				1	2*
2	2008 Mitigation Plan Acceptances	8	4	4	4	4	8	32
3	2008 Mitigation Plan Monitoring Closeout Reviews	0	20	20	20	20	20	100
4	NAVAPS	12	12	10				32
5	NCVPS/Settlements	10	20	20	20	20	10	100**
6	Supplemental Documentation	13						13***

* One of the Pre-June 18 Mitigation Plans has an end date of 12/31/08. The other has an end date of June, 2009 (due to nuclear plant scheduled outage)

** Includes Settlements in process which typically do not have NAVAPS and the Settlement itself takes the place of the NCVPS. Numbers reflect alleged violations addressed per requirement with an estimate of 5 requirements per settlement on average.

*** Reflects 2007 Post-June 18 violations already submitted to NERC prior to July 3, 2008 for which NERC required additional information in order to submit Notice of Penalty to FERC.

NOTE: Violations indicated above on a per requirement basis – most settlements, NAVAPS and NCVPS and will address multiple violations (on average approximately 3 to 5).

Resources

SERC has increased its compliance staff as compared to its 2008 Budget to address the increased workload. Several administrative assistants have been added to address higher than anticipated processing workload. In addition, a Critical Infrastructure Protection (CIP) specialist has been added to compliance enforcement staff to address CIP-related compliance issues. Audit activities for 2008 have largely been completed and a large portion of the audit staff will be re-deployed over the next three months towards processing outstanding violations (estimate 1.5 FTE). Existing enforcement staff will continue to apply a portion of their time towards completion of the inventory of outstanding violations, as of November 18, 2008, from now through second quarter 2009 (approximately 2.5 FTE), in addition to processing new PAVs as they are identified. Three new compliance staff members will be added before the second quarter 2009, and their time dedicated to clearing outstanding items is projected to equal approximately 0.5 FTE in 2009.

Additional Actions and Staffing Assignments to Address Outstanding Violations

SERC compliance has initiated several process improvements to maintain quality, process remaining outstanding violations, and increase efficiencies of future compliance actions:

1. A structured work management process is used to review compliance actions to drive them efficiently through to the next processing step, including final SERC approval. The process is being refined and metrics applied to further enhance productivity.
2. Final SERC approval of all compliance actions is made by the SERC Board Compliance Committee (BCC). Delegation of selected approvals to compliance staff is under evaluation to support prioritization of BCC focus on the most impactful issues in order to allow for more efficient processing of less critical items.
3. SERC is developing and will pilot a "short-form" settlement process for lower risk violations. Work is ongoing to ensure the process meets the Commission's expectations for level of detail in the record of enforcement actions and that the process is applicable to a sufficient set of violations so as to be effective.
4. Members of SERC staff have been designated as Subject Matter Experts (SMEs) for specific sets of reliability standards. Members of compliance enforcement staff have been assigned as "process owners" for each of the key enforcement processes (violation determination, mitigation plans, penalty determinations and settlements, reporting). A single point of contact from enforcement staff coordinates compliance actions with the applicable Registered Entity. Compliance staff SMEs are engaged to perform a peer check of mitigation plan closeout documentation to help ensure adequacy of mitigation plan performance.
5. Quality controls and efficiency methods (checklists, peer reviews) - Work is ongoing to improve quality and consistency of reviews, as well as improve efficiency in processing. Currently checklists and other tools are applied to support efficient processing.
6. IT Solutions – Document Management Software - A document management system is being aggressively pursued. It is estimated that a document management system would be in place by third quarter 2009 and will facilitate processing of violations and development and retention of the record of enforcement actions.
7. FRCC Mitigation Plan Completion Team - A specific team has been designated to review mitigation plans and perform closeout reviews for a selected set of FRCC mitigation plans. This effort will have a project leader and three other members of compliance staff. The estimated completion date is March 1, 2009 with an anticipated expenditure of 1 FTE.

Attachment 3F
SPP Regional Entity

Southwest Power Pool Regional Entity (SPP RE) is providing this status report of enforcement actions under the NERC Compliance Monitoring and Enforcement Program. This status report was requested by NERC as part of its planned response to the Commission's 2009 ERO Budget Order.

Part A – Regional Entity Workload

Current Workload (Alleged Violations discovered July 1 to December 1, 2008)

SPP RE has 8 outstanding alleged violations that were discovered July 1, 2008 or later.

Non-Current Workload

Alleged Violations discovered prior to June 18, 2007

SPP RE has 1 outstanding, unmitigated alleged violation discovered prior to June 18, 2007.

Alleged Violations discovered from June 18, 2007 to December 31, 2007

SPP RE has 44 outstanding alleged violations that were discovered from June 18, 2007 to December 31, 2007.

Alleged Violations discovered from January 1, 2008 to June 30, 2008

SPP RE has 5 outstanding alleged violations that were discovered from January 1, 2008 to June 30, 2008.

Part B – Regional Entity Work Plan to Address Non-Current Workload

Schedule for Completion of Processing

Following is SPP RE's schedule for issuing Notices of Confirmed Violations (NOCV) for its outstanding alleged violations, by time period of discovery:

Estimated Schedule
For NOCV Issuance
(based on 11/17/2008)

		2008		2009					
Item #	**Alleged Violations Discovered**	**Nov.**	**Dec.**	**Jan.**	**Feb.**	**Mar.**	**Apr.**	**May**	**Total**
1	July 1, 2008 or later				1	1	3	3	8
2	January 1, 2008 to June 30, 2008			1	1	1	2		5
3	June 18, 2007 to December 31, 2007	2	10	11	10	10	1		44
4	Pre-June 18, 2007				1				1

Resources and Comments

Normal Workload - SPP RE added a full-time staff member to concentrate on mitigation and enforcement and a full-time administrative assistant in the third quarter of 2008. This additional manpower has increased the production of completed activities in these areas while reducing the number of outstanding items.

Reduction of Non-Current Items – As noted, SPP RE added a full-time staff member to concentrate on mitigation and enforcement and a full-time administrative assistant in the third quarter of 2008. This additional manpower has increased the production of completed activities in these areas while reducing the number of outstanding non-current items.

There are 2 parts to the inventory of non-current alleged violations discovered from June 18, 2007 to December 31, 2007, which is SPP RE's largest inventory of outstanding items:

(1) Rejected Mitigation Plans: (30 Plans): SPP RE is working with two Registered Entities to develop mitigation plans that meet the mitigation plan requirements of the NERC CMEP. These two Registered Entities originally submitted mitigation plans that were rejected by the SPP RE due to content deficiencies plus commentary that included performance milestones conditional on the financial approval of a third party. With the assistance of the NERC staff, the SPP RE has presented the Registered Entities with suggested language to achieve mitigation plan acceptance. The SPP RE and the two Registered Entities agreed to a due date of December 10, 2008 for the revised mitigation plans. As of December 12, 2008, all 30 mitigation plans have been entered into the SPP RE Compliance Data Management System and are under review by the SPP RE Compliance staff. The expected completion date for the acceptance of the mitigation plans by the SPP RE staff is January 9, 2009, based on one staff member dedicated to review of these plans and completion of review of 8 mitigation plans per week.

(2) Notice of Confirmed Violation (NOCV) issuance (44 NOCV including the 30 violations discussed directly above): With the assistance of the SPP RE Legal Counsel and the Executive Director, the SPP RE staff (*see* "Normal Workload," above) have a planned production level of 2-3 NOCV notices per week to clear these outstanding items. Additional SPP RE staff will be

engaged to assist in reviewing and processing these outstanding items, as needed, and as time permits based on other ongoing activities.

SPP RE expects completion of the one pre-June 18, 2007 open mitigation plan by June 31, 2008, and complete close-out by March 1, 2009. The evidence of completion for this plan will require an on-site visit to the Registered Entity by a small audit team drawn from the SPP RE Compliance Monitoring group.

Attachment 3G
Texas Regional Entity

Texas Regional Entity (Texas RE) is providing this status report of enforcement actions under the NERC Compliance Monitoring and Enforcement Program. This status report was requested by NERC as part of its planned response to the 2009 ERO Budget Order.

Part A – Regional Entity Workload

Current Workload (Alleged Violations discovered from July 1 to December 1, 2008)

From July 1, 2008 to December 1, 2008, Texas RE has reported 20 alleged violations to NERC. These 20 alleged violations involve 7 Registered Entities and comprise Texas RE's current outstanding violations or workload for processing of alleged violations. Of these 20 alleged violations, 10 resulted from audits; 2 violations were from periodic data submittals; 4 violations were from spot checks; and 4 resulted from self reports.

Texas RE anticipates settlement agreements will be finalized by the end of first quarter 2009 for 1 alleged violation concerning 1 Registered Entity.

Non-Current Workload

Alleged Violations discovered prior to June 18, 2007

Texas RE has 1 outstanding pre-June 18, 2007 violation that has an ongoing mitigation plan that we continue to track.

Alleged Violations discovered from June 19, 2007 to December 31, 2007

There are no outstanding Notices of Alleged Violation or Proposed Penalty or Sanction for 2007. Notice of Penalty is pending for 18 confirmed violations involving 3 Registered Entities. NERC identified these violations in its request for Supplemental Record Information in response to the Commission's Order of July 3, 2008. The requested Supplemental Record Information has been submitted to NERC for these 18 violations. NERC has requested further clarification on 6 of the 18 violations, concerning 1 Registered Entity. Texas RE is currently working with NERC to finalize the record with regard to these violations.

Alleged Violations discovered from January 1, 2008 to June 30, 2008

Between January 1, 2008 and June 30, 2008, Texas RE reported 16 alleged violations involving 4 Registered Entities to NERC. All 16 alleged violations are currently the subject of settlement. Additionally, mitigation plans have been accepted, completed, and verified for 4 of these 16 alleged violations involving 2 Registered Entities.

Overall Violation Process Inventory (as of 12/4/08)

Item	Compliance Activity Required	# Violations
1	Pre-June 18, 2007 Unmitigated Violations	1
2	Settlement Discussions	17
3	NAVAPS*	18
4	NCVPS+	0
5	Supplemental Documentation	6

*Notice of Alleged Violation and Proposed Penalty or Sanction

+Notice of Confirmed Violation and Penalty or Sanction

Pre-June 18, 2007 mitigated violations have been “Accepted” by Texas RE and have been scheduled to be “Verified”. Ten mitigation plans involving 100 violations are scheduled to be verified in 2009. Settlement Discussions involve 5 Registered Entities.

NAVAPS are currently in the process of determining penalty or sanction and will be issued if Settlement is not requested. The 18 violations involve 6 Registered Entities.

Part B – Regional Entity Work Plan to Address Non-Current Workload

1. Texas RE anticipates settlement agreements will be finalized by the end of 2008 for 4 alleged violations concerning 2 Registered Entities. The remaining settlement agreements for 12 alleged violations, concerning 2 Registered Entities, will be finalized by the end of first quarter 2009.

2. Supplemental Record Information for 18 confirmed violations, concerning 3 Registered Entities, was submitted to NERC for Notices of Penalty to be issued. NERC has requested clarification on 6 of the violations concerning 1 of the 3 Registered Entities.

3. For the 1 outstanding pre-June 18, 2007 violation, per the Registered Entity’s mitigation plan, the plan is scheduled to be completed by the end of 2008.

4. Of the 200 pre-June 18, 2007 mitigated violations, 100 remain to be verified. The 100 violations are part of 10 mitigation plans for 10 Registered Entities. Five (5) of the mitigation plans will be verified as part of scheduled audits which will be completed by the end of September 2009. The five (5) remaining mitigation plans are scheduled to be verified by June 2009.

Texas RE considers responding to NERC’s requests for Supplemental Record Information regarding the pending Notices of Penalty as the highest priority. Currently, Texas RE is gathering additional information to respond to NERC's questions on 6 violations involving 1 Registered Entity.

Resources

Texas RE is fully staffed as of December 4, 2008. For 2009, Texas RE plans to add two additional employees to the audit staff and two additional employees to the enforcement staff. Texas RE has one part-time consultant currently assisting with enforcement and other matters as needed. Consultants are subject to the same conflict of interest and confidentiality rules as Texas RE employees.

Attachment 3H
WECC

Western Electricity Coordinating Council (WECC) is providing this status report of enforcement actions under the NERC Compliance Monitoring and Enforcement Program. This status report was requested by NERC as part of its planned response to the Commission's 2009 ERO Budget Order.

Part A - Regional Entity Workload

Current Workload (Alleged Violations discovered from July 1 – November 19, 2008)

Current "outstanding violations" awaiting Notices of Alleged Violation (NOAV) or Notices of Confirmed Violation (NOCV): 167.

Non-Current Workload

Alleged Violations discovered prior to June 18, 2007

89.

Alleged Violations discovered between June 18, 2007 and December 31, 2007

144.

Alleged Violations discovered between January 1, 2008 and June 30, 2008

508.

Note: In addition to the total of 741 outstanding violations discovered prior to July 1, 2008 (*i.e.*, 89 + 144 + 508 = 741), there are additional violations for this time period for which settlements have been reached in principle, but not yet submitted to NERC.

Part B – Regional Entity Work Plan to Address Non-Current Workload

Resources

WECC takes a comprehensive, proactive approach in all areas of regulatory compliance. The Compliance Enforcement Section ("Enforcement") process operates in an environment of collaboration among Analysts, Engineers, Registered Entities, other Regional Entities and NERC. Being proactive at all times, Enforcement addresses needs as they arise. This includes new hiring, on-going training of personnel, purchasing equipment, and improving facility and office infrastructure. This approach means Enforcement is constantly improving its processes and refining its procedures, thus evolving each day to greater efficiency and better enforcement. The Enforcement team is comprised of eight employees: one acting manager, two case managers, two consultant engineers, an editor, a data analyst, and a coordinator. Collectively, Enforcement's effectiveness can be quantified. As of May 31, 2008, Enforcement had 985 outstanding violations awaiting a Notice of Alleged Violation (NOAV). As of December 1, 2008, Enforcement reduced this number by approximately 50%.

To help improve effectiveness and quality of work, Enforcement has made a commitment to constantly learn from feedback it receives from the Commission, NERC, and the other Regional Entities. On a weekly basis, Enforcement is implementing new and improved processes and procedures based on valuable feedback. To help improve its productivity, Enforcement is seeking candidates for several positions, specifically, a paralegal and an engineer. Furthermore, Enforcement is also considering hiring another case manager to improve throughput.

Work Plan Summary

Notices of Alleged Violation (NOAV)

To date, Enforcement has submitted NOAVs to Registered Entities for 509 violations. There are currently 632 remaining violations that need to receive a NOAV. **Appendix A** shows Enforcement's Plan for NOAV reduction. Enforcement's goal is to have 100 or fewer violations in queue. Accomplishment of this goal will be affected by arrivals of violations above forecast violations; this forecast is based on historical trends. In addition, achieving this goal will be affected by additional information requests from NERC. Enforcement prioritizes its resources to address risks that have the greatest potential to negatively affect the reliability of the bulk electric system (e.g., vegetation management, relay-maintenance, operator training and cyber security).

Enforcement prioritizes NOAVs by considering the following factors: violation date, risk factor and severity level, and discovery method. In general, Enforcement aims to issue a NOAV for the oldest violation first; however, it also considers the latter two factors when determining its priorities. Given this, below are general estimates for the completion of the sections detailed in Part A above.

- Pre-June 18 and Post-June 18, 2007 Violations: Enforcement plans to send a NOAV to the applicable Registered Entity for all Pre-June 18 and Post-June 18, 2007 violations by the end of January 2009, with the caveat that some violations will not be processed by Enforcement, are currently on hold based on Commission investigations, or will be packaged with a grouping of 2008 violations to enhance the efficiency of the process.

- January 1, 2008 – June 30, 2008 Violations: Enforcement plans to send NOAVs to Registered Entities for this grouping as they are ready, with all NOAVs for this grouping sent by the end of the second quarter 2009. In addition, WECC will send NOAVs for some of the violations discovered subsequent to June 30, 2008, by the end of the second quarter 2009.

Notices of Confirmed Violation (NOCVs)

To date, Enforcement has submitted NOCVs to Registered Entities for 136 violations. For all violations for which a NOAV has been sent and accepted by the Registered Entity, Enforcement plans to complete approximately 50 NOCVs per month. Ultimately, Enforcement's plan is to submit an NOCV within 30 days after a Regional Entity's response to the NOAV. Enforcement's goal is to have this plan implemented by the end of the first quarter 2009. **Appendix B** highlights progress towards this goal.

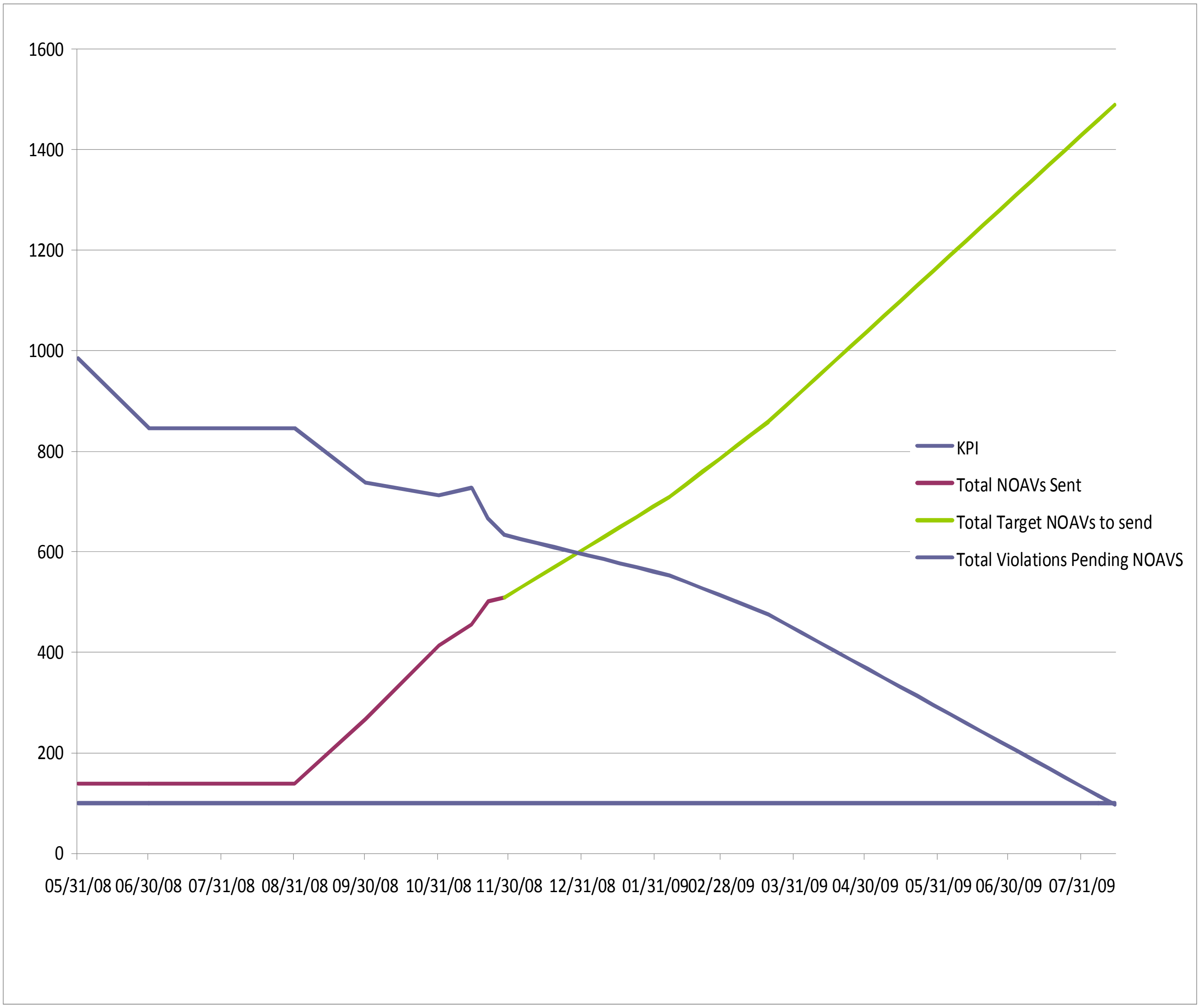
Nevertheless, for violations issued in a NOAV and contested by a Registered Entity, it is highly probable that all will go to settlement negotiations. WECC cannot forecast the completion of settlements; therefore, Enforcement cannot provide a reasonable completion estimate for the entirety of the NOCV backlog.

Appendix A – WECC NOAV DATA

NOAV's
Glide Path Data
as of November 30, 2008

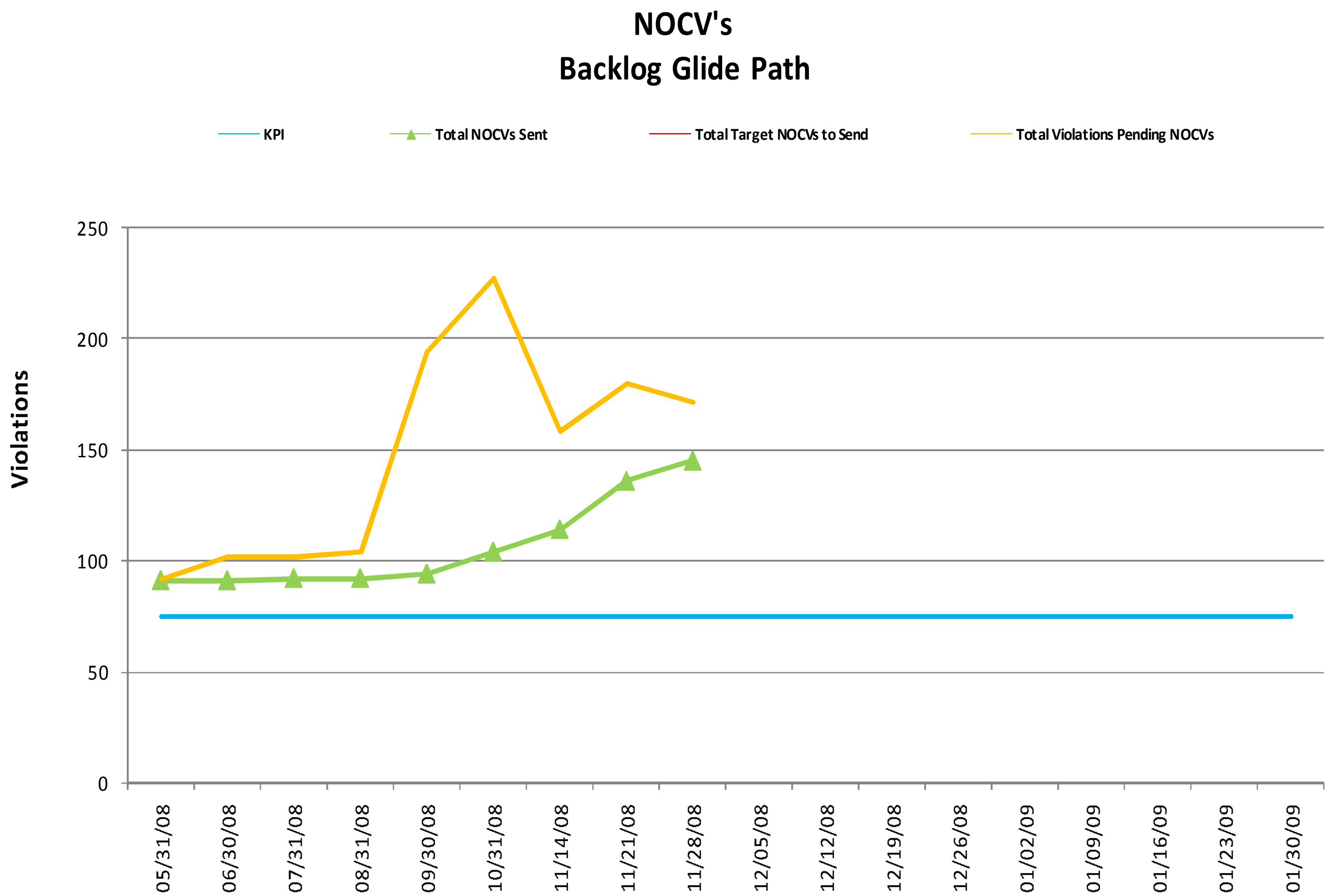
Dates	KPI	Total NOAVs Sent	Weekly NOAV Estimate (Violations)	Total Target NOAVs to send	Total Violations Pending NOAVS	Total New (Expected) Violations	Total (Expected) Dismissed Violations
05/31/08	100	139			985		
06/30/08	100	139			846		
07/31/08	100	139			846		
08/31/08	100	139			846		
09/30/08	100	267			737		
10/31/08	100	413			712		
11/14/08	100	455			727	34	19
11/21/08	100	501			666	43	23
11/28/08	100	509		509	633	0	34
12/05/08	100		20	529	625	15	3
12/12/08	100		20	549	617	15	3
12/19/08	100		20	569	609	15	3
12/26/08	100		20	589	601	15	3
01/02/09	100		20	609	593	15	3
01/09/09	100		20	629	585	15	3
01/16/09	100		20	649	577	15	3
01/23/09	100		20	669	569	15	3
01/30/09	100		20	689	561	15	3
02/06/09	100		20	709	553	15	3
02/13/09	100		25	734	540	15	3
02/20/09	100		25	759	527	15	3
02/27/09	100		25	784	514	15	3
03/06/09	100		25	809	501	15	3
03/13/09	100		25	834	488	15	3
03/20/09	100		25	859	475	15	3
03/27/09	100		30	889	457	15	3
04/03/09	100		30	919	439	15	3
04/10/09	100		30	949	421	15	3
04/17/09	100		30	979	403	15	3
04/24/09	100		30	1009	385	15	3
05/01/09	100		30	1039	367	15	3
05/08/09	100		30	1069	349	15	3
05/15/09	100		30	1099	331	15	3

Dates	KPI	Total NOAVs Sent	Weekly NOAV Estimate (Violations)	Total Target NOAVs to send	Total Violations Pending NOAVS	Total New (Expected) Violations	Total (Expected) Dismissed Violations
05/22/09	100		30	1129	313	15	3
05/29/09	100		30	1159	295	15	3
06/05/09	100		30	1189	277	15	3
06/12/09	100		30	1219	259	15	3
06/19/09	100		30	1249	241	15	3
06/26/09	100		30	1279	223	15	3
07/03/09	100		30	1309	205	15	3
07/10/09	100		30	1339	187	15	3
07/17/09	100		30	1369	169	15	3
07/24/09	100		30	1399	151	15	3
07/31/09	100		30	1429	133	15	3
08/07/09	100		30	1459	115	15	3
08/14/09	100		30	1489	97	15	3


1600
1400
1200
1000
800
600
400
200
0
05/31/08
06/30/08
07/31/08
08/31/08
09/30/08
10/31/08
11/30/08
12/31/08
01/31/09
02/28/09
03/31/09
04/30/09
05/31/09
06/30/09
07/31/09
KPI
Total NOAVs Sent
Total Target NOAVs to send
Total Violations Pending NOAVS

Appendix B: WECC NOCV DATA

Dates	KPI	Total NOCVs Sent	Total Target NOCVs to Send	Total Violations Pending NOCVs
05/31/08	75	91		92
06/30/08	75	91		102
07/31/08	75	92		102
08/31/08	75	92		104
09/30/08	75	94		194
10/31/08	75	104		227
11/14/08	75	114		158
11/21/08	75	136		180
11/28/08	75	145		171
12/05/08	75			
12/12/08	75			
12/19/08	75			
12/26/08	75			
01/02/09	75			
01/09/09	75			
01/16/09	75			
01/23/09	75			
01/30/09	75			



KPI: Less than or equal to 75 NOCVs pending

ATTACHMENT 4

REGIONAL ENTITY

PROJECTED NUMBERS OF COMPLIANCE AUDITS

AND COST PER AUDIT

BY AUDIT SIZE AND TYPE, FOR 2009

# of Planned Audits - Dec. 15 Compliance Filing

	On-Site			Off-Site		
	Small	**Med**	**Large**	**Small**	**Med**	**Large**
FRCC	0	5	4	7	0	0
MRO	0	2	9	6	9	0
NPCC	0	0	4	20	16	32
RFC	0	2	7	27	23	1
SERC	22	29	13	15	0	0
SPP	0	1	14	4	8	1
TRE	11	3	7	10	7	11
WECC	0	0	19	52	42	0

Cost per Audit

	On-Site			Off-Site		
	Small	**Med**	**Large**	**Small**	**Med**	**Large**
FRCC	-	$ 24,309	$ 31,870	$ 8,351	-	-
MRO	-	$ 14,353	$ 33,623	$ 6,286	$ 10,520	-
NPCC	-	-	$ 53,510	$ 2,567	$ 6,478	$ 14,022
RFC	-	$ 17,454	$ 33,050	$ 11,636	$ 14,556	$ 24,648
SERC	$ 11,102	$ 16,733	$ 31,190	$ 8,443	-	-
SPP	-	$ 29,325	$ 41,225	$ 9,075	$ 23,925	$ 32,225
TRE	$ 20,818	$ 24,492	$ 28,166	$ 18,352	$ 21,204	$ 24,056
WECC	-	-	$ 48,130	$ 4,954	$ 7,731	-

ATTACHMENT 5

PROJECTED INCREASES IN BUDGETED SALARY EXPENSE PER FTE

BY REGIONAL ENTITY PROGRAM

FROM 2008 BUDGETS TO 2009 BUDGETS

Analysis of Change in Salary Costs per FTE

	Functions in Delagation Agreement							
	Statutory Total	Reliability Standards Development (Section 300)	Compliance Monitoring & Enforcement and Org. Registration(Section 400 & 500)	Reliability Readiness Evaluation and Improvement (Section 700)	Reliability Assessment & Performance Analysis (Section 800)	Training, Education and Operator Certification (Section 900)	Situational Awareness and Infrastructure Security (Section 1000)	All Indirect Functions
	% Change in Salary Expense per FTE							
FRCC	3.25%	-11.25%	12.80%		3.70%	32.79%	-80.33%	
MRO	9.71%	3.08%	25.47%	23.74%	18.69%	-10.24%	39.55%	-4.38%
NPCC	24.23%	38.06%	26.34%		33.38%	14.71%	22.63%	17.05%
RFC	5.25%	23.70%	3.65%		-5.93%	5.20%	-16.92%	9.57%
SERC	1.21%	5.64%	-1.86%	0.07%	-3.91%	6.80%	-0.08%	6.27%
SPP	11.64%	3.90%	17.50%	-13.83%	3.90%	26.02%		-12.33%
TRE	4.23%	3.37%	-9.96%		67.12%	-12.67%	-2.09%	1.10%
WECC	16.54%	-0.96%	13.01%	3.90%	0.45%	19.48%	12.21%	40.62%