128 FERC ¶ 61,025
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Suedeen G. Kelly, Marc Spitzer,
and Philip D. Moeller.

North American Electric Reliability Corporation | Docket Nos. RR08-6-002 and RR07-14-003

ORDER ON COMPLIANCE FILING

(Issued July 16, 2009)

1. On December 15, 2008, as supplemented on March 16, 2009, the North American Electric Reliability Corporation (NERC) submitted a filing in compliance with the Commission's October 16, 2008 order on NERC's proposed 2009 business plan and budget (Budget Order).[1] In this order, we accept the compliance filing in part and reject it in part, as discussed below.

I. <u>Background</u>

2. In August 2008, NERC, the Commission-certified Electric Reliability Organization (ERO),[2] filed its 2009 Business Plan and Budget, as well as the 2009 business plans and budgets of each Regional Entity and of the Western Interconnection Regional Advisory Body (WIRAB). In the Budget Order, the Commission conditionally accepted the business plans and budgets of NERC, the Regional Entities, and WIRAB. The Commission, however, expressed concern about whether NERC's budget provides adequate funding for certain activities. The Commission directed NERC to submit a

[1] *N. Am. Elec. Reliability Corp.*, 125 FERC ¶ 61,056 (2008) (Budget Order), *order on clarification*, 126 FERC ¶ 61,021, at P 10 (2009) (Clarification Order).

[2] *See N. Am. Elec. Reliability Corp.*, 116 FERC ¶ 61,062, *order on reh'g and compliance*, 117 FERC ¶ 61,126 (2006) (ERO Certification Order).

compliance filing that provides further explanation regarding funding levels of certain programs and a possible supplemental request for funding.[3]

3. In the Budget Order, the Commission directed NERC to reassess its allocation of full-time employees (FTE) and other resources, budgeted in 2009 for the Reliability Standards program, to provide an explanation in its compliance filing and, if appropriate, to request supplemental funding to support this program.[4] The Commission also directed NERC to address the adequacy of its 2009 budget for compliance monitoring and enforcement and for compliance violation investigations, including a meaningful plan and schedule for processing outstanding alleged violations, mitigation plans, notices of penalty, compliance violation investigations, and a supplemental budget request if appropriate.[5]

4. In its budget filing, NERC proposed to phase out its Reliability Readiness Evaluation and Improvement Program (Reliability Readiness Program). Finding that NERC had not adequately explained its reasons for eliminating the program, the Commission directed NERC to reconsider the funding for the program, to provide additional explanation in a compliance filing about the proposed elimination and, if appropriate, to provide a supplemental budget request for the continued funding of the program beyond the first quarter of 2009.[6]

5. The Commission expressed concern about the current practice of gathering and assessing data as related to NERC's Reliability Assessment and Performance Analysis Program. The Commission directed NERC to reconsider the funding for the program, to provide an explanation in a compliance filing and, if appropriate, to provide a supplemental budget request for additional funding of the program.[7]

6. The Commission noted a rise in total projected administrative costs for the 2009 budget and analyzed the indirect costs associated with each of the Regional Entity program areas. The Commission found that the 2009 Business Plans and Budgets do not provide adequate support for the increase to General and Administrative expenses for a

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[3] The Commission also accepted NERC's July 21, 2008 "reliability enhancement programs" compliance filing, and directed NERC to submit an update of its enhancement programs as part of the 2010 Business Plan and Budget filing.

[4] Budget Order, 125 FERC ¶ 61,056 at P 25.

[5] *Id.* P 28.

[6] *Id.* P 31, 34.

[7] *Id.* P 37.

number of the Regional Entities. Therefore, the Commission directed NERC to provide additional information to justify the cost increases.[8]

II. Notice and Responsive Pleadings

7. Notice of NERC's December 15 filing was published in the *Federal Register*, 73 Fed. Reg. 78,777 (2008), with interventions and protests due on or before January 14, 2009. Edison Electric Institute (EEI), Exelon Corporation (Exelon), Transmission Access Policy Study Group (TAPS), and ISO New England Inc. (ISO-NE) filed timely motions to intervene and comments. Western Electricity Coordinating Council (WECC) filed timely comments.

8. Notice of NERC's March 16 response to the Commission's request for data was published in the *Federal Register*, 74 Fed. Reg. 12,351 (2009), with interventions and protests due on or before April 6, 2009. Baltimore Gas and Electric Company; Southern California Edison Company; and Constellation Energy Commodities Group, Inc., Constellation NewEnergy, Inc., and Constellation Power Source Generation, Inc., jointly, filed timely motions to intervene. Salt River Agricultural Improvement and Power District (Salt River), Omaha Public Power District, Northeast Utilities Service Company, American Public Power Association (APPA), Electricity Consumers Resource Council (ELCON), Sierra Pacific Power Company and Nevada Power Company, South Carolina Public Service Authority, EEI, Electric Power Supply Association (EPSA), Public Service Electric and Gas Company, and National Grid USA filed timely motions to intervene and comments. Exelon, TAPS, and National Rural Electric Cooperative Association (NRECA) filed timely comments.

III. Discussion

A. Procedural Matters

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the notices of intervention and the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. NERC Business Plan and Budget

1. NERC Compliance Filing

10. As a general matter, NERC states that the 2009 Business Plan and Budget adequately provides for NERC's resource needs for its statutory programs, based on the information available during the development period. However, NERC states that, based

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[8] *Id.* P 51, 53.

on additional information, experience, and developments since that time, it now anticipates it will hire additional staff and contractors to supplement the 2009 Business Plan and Budget.[9] Notwithstanding the proposed increases, NERC avers that the funding and assessments originally requested are sufficient; NERC plans to use its Working Capital Reserve to fund the additional budget requirements.[10]

a. Reliability Standards Development Program

11. NERC states that an adjustment to the 2009 budgeted resources for the Reliability Standards Development Program is necessary. NERC explains that one reason for this is the increased focus on, and expedited development of, Critical Infrastructure Protection standards. NERC states that another development is a greater need to contract for subject matter experts for their technical expertise to support the expertise of NERC staff. NERC lists over a dozen technical areas where additional expertise may be required. According to NERC, a third development is that the number of regulatory filings resulting from completed standards development projects is now expected to increase beyond the numbers reflected in the 2009 Business Plan and Budget. Consequently, NERC proposes to increase its budget for this program by $558,010 ($500,000 for consulting services and $58,010 for 0.5 FTE).

b. Compliance Monitoring and Enforcement Program

12. NERC explains that it expects increased efficiencies from reorganizing the compliance monitoring and enforcement program staff into two areas, Compliance Violation Investigations and Compliance Program Audits. Nonetheless, NERC states that current workload estimates show a need for an increase in staffing above that provided in the 2009 Business Plan and Budget. NERC proposes to add 4 new FTEs to the Compliance Violation Investigations group and 0.5 FTE as program staff to assist with the preparation of documents to be filed with regulatory agencies. NERC estimates a budgetary increase of $627,079 (for salary, personnel expense, travel, and office costs) for this addition of 4.5 FTE staff positions.

c. Reliability Assessment and Performance Analysis Program

13. NERC states that it will review its internal data collection and validation processes, but that any enhancement of these processes will not require additional manpower or the incurrence of other costs, as they will be developed internally by

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[9] Compliance Filing at 3-5.

[10] *Id.* at 4-5. NERC notes that it has a committed $4 million line of credit. *Id.* at 5 n.9.

existing staff. NERC maintains that automated data checks will complement the peer review performed by NERC staff, Regional Entity staff, and industry subject matter experts. NERC also identifies a need for an additional staff member to support NERC's reliability dashboard, performance metrics, and reliability benchmarking activities (these activities are discussed below with respect to NERC's report on enhancement programs).

2. Comments

14. EEI and Exelon support NERC's compliance filing and recommend that the Commission approve the NERC budget and business plan. Exelon notes that the compliance filing reflects appropriate adjustments by NERC management based on information that was not available at the time the budget was developed.

15. WECC comments that NERC's proposal to add additional resources to the standards development program will be beneficial. WECC also supports the proposal to increase staff to take the lead on high priority compliance violation investigations.

16. EEI comments that the compliance filing continues to raise concerns regarding the sufficiency of the NERC and Regional Entity efforts to implement the Compliance Monitoring and Enforcement Program with respect to consistency issues that go beyond the budget issues.[11] EEI recommends that NERC and the Regional Entities develop a comprehensive plan that addresses such matters as efficiency in processing settlements and consistency and transparency in the program.

3. Commission Determination

17. With respect to the Reliability Standards Development Program, the Commission finds NERC's proposal adequate for the current budget year. We expect that NERC will continue to assess, and address in its 2010 budget filing, whether it has sufficient professional and technical staff in its Reliability Standards Development Program to (i) ensure the timely and efficient management of the Reliability Standards development process, (ii) work to achieve the "highest degree of integrity and consistency of quality and completeness" in Reliability Standards,[12] and (iii) advise the NERC board on whether to accept or reject a Reliability Standard approved by the stakeholder ballot body.

18. With respect to the Compliance Monitoring and Enforcement Program, the Commission accepts NERC's proposal to increase staffing by 4.5 FTEs. NERC states that it will hire 4 FTEs for the Compliance Violation Investigations group and an

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[11] EEI Comments at 3.

[12] Clarification Order, 126 FERC ¶ 61,021 at P 10.

additional attorney to support the Compliance Monitoring and Enforcement Program. The Commission highlighted concerns regarding these particular areas in the Budget Order.[13] NERC's revised budget addresses these concerns and will provide NERC with additional capabilities to complete its work in 2009 and beyond. While we accept NERC's proposal to increase the FTEs that support the Compliance Monitoring and Enforcement Program, we remain concerned regarding the continuing backlog in processing alleged violations. We therefore direct NERC to provide the Commission with a report on the status of the remaining unprocessed violations in its 2010 business plan and budget filing.

19. EEI's concerns regarding consistency of settlements and transparency within the Compliance Monitoring and Enforcement Program are beyond the scope of this budget and business plan proceeding.

20. With respect to the Reliability Assessment and Performance Analysis Program, the Commission accepts NERC's proposal to review and enhance its current data collections process by introducing additional independent, automated data checking systems. We will accept this proposal but will direct NERC to provide a status report on its progress in its 2010 business plan and budget filing.

21. Finally, we accept NERC's approach of drawing from its Working Capital Reserve to fund the additional budget requirements.

C. Reliability Readiness Program

1. Compliance Filing

22. NERC states that it continues to believe "the decision to terminate the [reliability readiness] program is warranted and appropriate."[14] NERC also states that its annual business plan and budget filing was the appropriate filing in which to propose that the Reliability Readiness Program be eliminated, because that is where NERC presents detailed descriptions of its planned activities for the upcoming year and the resources and funding it believes are necessary. NERC explains that the Board's decision to discontinue the program resulted from extensive analysis of the continued value of and need for the program, which was part of the business planning and budgeting process for 2009.

23. NERC further states that, in light of the enactment of section 215 of the Federal Power Act (FPA) and NERC's certification as the ERO with authority to

[13] *See* Budget Order, 125 FERC ¶ 61,056 at P 28-29.

[14] Compliance Filing at 20.

develop, monitor, and enforce compliance with mandatory Reliability Standards, the Reliability Readiness Program no longer served a useful purpose. NERC explains that, during the second three-year cycle of reliability readiness evaluations (and with the onset of the Compliance Monitoring and Enforcement Program), the focus of the evaluations was shifted from compliance with Reliability Standards to a consultative approach on lessons learned from prior evaluations and suggestions on operational improvements. NERC reports that, despite the change in focus, many of the functions of this program had become redundant. According to NERC, most of the benefits of the program had been realized through the initial series of evaluations conducted during the first three-year cycle. NERC acknowledges that readiness evaluations have resulted in 3,200 recommendations but explains that these results are historic in nature; the evaluations will produce diminishing returns. NERC adds that registered entities are now subject to the mandatory compliance processes of the Compliance Monitoring and Enforcement Program, which provides entities insights into their reliability practices that were formerly provided by readiness audits and evaluations.

24. NERC points out that the need to focus the attention and resources of NERC, of the Regional Entities, and of the registered entities on Reliability Standards development and on compliance with and enforcement of them, has provided further grounds to discontinue the Reliability Readiness Program. NERC explains that in the second round of evaluations it observed that the industry’s attention and resources were now focused on preparing for, implementing, and demonstrating compliance with the mandatory Reliability Standards and that fewer industry resources were available to address the results of readiness evaluations. NERC also clarifies that it has not delegated the performance of such evaluations to the Transmission Owners and Operators Forum or any other group but rather determined to discontinue the program.

2. Data Request

25. On February 14, 2009, the Commission requested additional data relating to NERC’s proposal to terminate funding for the Reliability Readiness Program. The Commission directed NERC to provide the NERC Operating Committee report that was mentioned in the compliance filing, to identify the functions in the Reliability Readiness Program that have become redundant, to provide task force documents related to the decision to eliminate the program, and to give a description of what NERC intends to do in regards to the tracking and implementation of Readiness Review recommendations.

26. On March 16, 2009, NERC responded to the Commission’s data request. Among other things, NERC provided the NERC Operating Committee report analyzing whether the Reliability Readiness Program provided ongoing benefits. NERC also provided other relevant records from its Operating Committee, Members’ Representative Committee, Finance and Audit Committee, and Reliability Readiness Task Force meetings. These documents indicate that the decision to eliminate the program had been made over a

period of months in mid-2008 and tend to demonstrate that the decision has been thoroughly vetted internally within NERC and with NERC stakeholders.

3. Comments

27. Numerous commenters support NERC's proposal to terminate the Reliability Readiness Program.[15] They agree that the program has outlived its usefulness and is now redundant in light of other NERC programs, including the Compliance Monitoring and Enforcement Program. Numerous commenters remark that the program is no longer cost effective. For example, Salt River comments that "improvement in reliability could better be achieved through directing NERC resources towards improving and enforcing standards coupled with other reliability improvement measures."[16]

4. Commission Determination

28. The Commission accepts the ERO's proposal to terminate funding of the Reliability Readiness Program. As described above, documents provided in response to the Commission's data request indicate that the ERO engaged in a thorough vetting, both internally and with stakeholders, on the decision to eliminate the Reliability Readiness Program. The ERO's documentation provides in detail how, over time, the Reliability Readiness Program had become redundant of other ERO and Regional Entity activities. Further, the ERO's response to the data request indicates that the ERO considered alternative solutions before concluding that the best option was to eliminate funding for the program. We also note that numerous commenters representing a wide spectrum of the electric industry support the ERO's proposal and emphasize that the Reliability Readiness Program has become redundant of other ERO programs. Based on this record, we conclude that the ERO has provided sufficiently detailed support for its proposal to eliminate funding for the Reliability Readiness Program.

D. Regional Entity Audit Metrics

29. In the Budget Order, the Commission stated that, while the audit metrics provide a valuable tool for benchmarking and comparing Regional Entity budgets, there are two specific matters that need further refinement. The Commission explained that the metrics lack a uniform description regarding the types of audits which the Regional Entities perform (i.e., it is not clear what constitutes a "large audit," "medium audit," "small audit," "tabletop audit," "offsite audit," or "other audit"). The Commission directed NERC to include in its compliance filing (1) standardized terminology regarding the

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[15] See, for example, the comments of EEI, APPA, EPSA, ELCON, NRECA, TAPS, Salt River, and National Grid USA.

[16] *E.g.*, Salt River Comments at 3.

different types of audits, and (2) revised audit-related metrics applying the standardized terminology.[17]

30. In the compliance filing, NERC states that the Regional Entities, in consultation with NERC, have developed definitions for "small," "medium," and "large" compliance audits. They define "small" as those entailing 25 or fewer requirements; "medium" as entailing 26 to 75 requirements; and "large" as entailing more than 75 requirements. NERC further states that audits under these categories can be segregated into "on-site" (at the responsible entity's site) and "off-site" (at some other location than the responsible entity's site, typically the Regional Entity's office). NERC explains the cost components and potential causes for differences in cost per audit among Regional Entities. Moreover, NERC reports the number of on-site and off-site audits in each size category projected to be performed in 2009 by each Regional Entity, as well as the costs per audit by size and site category.

31. The Commission accepts the ERO's proposed definitions for small, medium, and large compliance audits and approves of the proposed method to segregate the categories into "onsite" and "offsite" audits. The Commission acknowledges the efforts by the ERO and the Regional Entities to standardize compliance terminology and believes that such steps will enhance the ERO's ability to assess prior year performance as well as plan future compliance activities.

E. NPCC Cost Allocation

1. Budget Order

32. In the Budget Order, the Commission described NERC's and the Northeast Power Coordinating Council's (NPCC) cost allocation proposal as follows:

> [F]unding among end users will continue to be allocated in each country based on Net Energy for Load [(NEL)]. One exception to this method of collection would apply to the allocation of certain compliance and enforcement costs for jurisdictions outside the United States where a provincial government has designated an entity other than a Regional Entity to perform compliance and enforcement activities. Specifically, there are now two programs, one for the Ontario Independent Electric System Operator (IESO) and one for the Province of Québec. NERC states that the adjustments to the NPCC allocations for IESO and Québec are based on an alternate allocation that charges the Québec province based

[17] Budget Order, 125 FERC ¶ 61,056 at P 47.

> upon an audit-based allocation methodology. As a result, certain costs of NERC's and NPCC's compliance programs are excluded from the IESO and Québec assessments. According to NERC, "the excluded costs are allocated to the remaining entities using . . . the audit-based allocation methodology for NPCC," i.e., NPCC costs are allocated among the remaining balancing areas within NPCC based on an audit-based methodology.[18]

33. In the Budget Order, the Commission explained that, in the ERO Certification Order, the Commission approved NERC's proposed allocation of costs based on Net Energy for Load (NEL) as providing a fair and reasonable means for allocating costs.[19] Further, the Commission stated in the Budget Order that NERC's budget filing was not clear regarding how NERC plans to apply an audit-based methodology to allocate "excluded" costs among the United States balancing authorities within NPCC.[20] The Commission stated that NERC and NPCC did not explain whether this results in a deviation from the approved NEL cost allocation methodology. Therefore, the Commission directed NERC and NPCC to submit additional explanation of how the balance of the costs for the NPCC compliance and enforcement (i.e., the excluded costs from the IESO and Québec assessments) will be allocated to entities within the United States. The Commission directed NERC and NPCC to justify any proposed deviation from the approved NEL methodology. The Commission stated that it will defer consideration of NERC's proposed allocation methodology until the review of NERC's and NPCC's compliance filing.

2. <u>Compliance Filing</u>

34. NERC explains that the costs of its Compliance Monitoring and Enforcement Program that are excluded from the allocation to IESO and Québec are allocated to all other Regional Entities, and ultimately to all other load-serving entities (including those within NPCC outside of IESO and Québec) on the basis of NEL.

35. NERC explains that NPCC has developed a "composite cost allocation" methodology to address the different compliance regimes within the United States and Canadian portions of the NPCC region. NERC states that since NPCC's compliance activities with respect to Ontario focus solely on IESO, and because IESO's compliance program performs compliance activities that otherwise would have to be performed by

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[18] *Id.* P 65.

[19] *Id.* P 66 (citing ERO Certification Order, 116 FERC ¶ 61,062 at P 167).

[20] *Id.* P 67.

NPCC, the NPCC board of directors agreed that 55 percent of NPCC's compliance costs should be shared by all regional participants, both United States and Canadian entities, on an NEL basis.[21] The NPCC board further agreed that the remaining 45 percent of the NPCC compliance costs "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."[22] Further, NPCC determined that the scope of a compliance audit is more dependent on the functions for which it is registered than the size of the service territory or other characteristics, including NEL. Thus, the NPCC board agreed that this "audit-based" methodology should be applied consistently throughout the region.

36. Finally, NERC renews its request that the Commission approve NERC's "Expanded Policy on Allocation of Certain Compliance and Enforcement Costs," which was attached to the 2009 Business Plan and Budget. In that policy, NERC lists several requirements; this special allocation will only be available (1) for jurisdictions outside the United States, (2) for activities associated with the Compliance Monitoring and Enforcement Program, (3) only where the provincial government, by statute or regulation has designated an entity other than a Regional Entity to have primary responsibility for reliability services, (4) when the designated entity is actually conducting effective compliance monitoring and enforcement, and (5) when the adjustment is applied to the costs of the Regional Entity and NERC.

3. Comments

37. ISO-NE states that it does not contest NERC's proposal to replace the NEL allocation methodology with an audit-based methodology with respect to Canadian entities, but ISO-NE maintains the Commission should reject this proposal with respect to United States entities. ISO-NE recounts the Commission's concern about conflicting lists of the number and type of bulk electric system elements and the lack of clarity about which list NPCC is using.[23] ISO-NE contends that, until this concern is resolved, a "fair and reasonable administration of an audit-based cost allocation methodology will be difficult."[24] ISO-NE concludes that the best approach would be to require NPCC to follow the NEL approach for its United States-based entities for the 2009 calendar year.

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[21] Compliance Filing at 73.

[22] *Id*.

[23] ISO-NE January 14 Comments at 6 (citing *N. Am. Elec. Reliability Corp.*, 125 FERC ¶ 61,295, at P 12 (2008)).

[24] *Id.* at 7.

4. **Commission Determination**

38. The Commission rejects NPCC's proposal to allocate compliance costs in the United States portion of the NPCC region by applying, in part, an audit-based methodology. In the ERO Certification Order, the Commission approved NEL as an equitable manner of allocating ERO and Regional Entity costs among end users. The Commission has consistently affirmed NEL as an equitable methodology and, while recognizing that needs may arise that justify a deviation, that NEL should be applied consistently across the regions.[25] The Commission is not persuaded that NPCC has adequately justified its proposed deviation from NEL for its compliance monitoring and enforcement activities within the United States portion of the region.

39. We understand that the NPCC, as a cross-border Regional Entity, will have to address international concerns, as with the different compliance and enforcement structure within certain Canadian provinces. However, we are not convinced that those international differences justify a deviation regarding NEL within the United States portion of the NPCC region.

40. Further, we are not satisfied with NPCC's explanation that the scope of a compliance audit is more dependent on the functions for which it is registered than the size of the service territory or other characteristics, including NEL. Compliance audits are just one aspect of the Compliance Assessment and Monitoring Program, which describes numerous compliance tools such as spot checks, self-certifications, and investigations—in addition to compliance audits. Moreover, NERC and NPCC do not provide any specifics that compare the differing cost allocations under the current NEL and modified, audit-based approach. Finally, we note that NERC, in describing how it will absorb the costs excluded from the allocation to IESO and Québec, indicates that it will continue to allocate costs to all Regional Entities and ultimately to all load-serving entities (including those entities within NPCC outside of IESO and Québec) on the basis of NEL.[26] We believe that NPCC could reasonably allocate costs within the United States in a manner similar to that described by NERC. Given our established practice and preference to maintain the consistent application of NEL for ERO and Regional Entity cost allocation within the United States, the Commission is not persuaded by NPCC's explanation for its deviation from NEL and, thus, rejects NPCC's proposal.

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[25] *See, e.g.*, *N. Am. Elec. Reliability Corp.*, 122 FERC ¶ 61,245, at P 24-25 (2008) (expressing concern that an ERO proposal may "encourage local differences to a methodology that is currently applied across the regions" and requiring that changes to NEL be submitted in advance of the annual business plan and budget).

[26] Compliance Filing at 71; *see also id.* P 72-75.

41. Accordingly, the Commission directs NERC and NPCC to determine the cost of NPCC services provided to both United States and Canadian entities. The Commission is not rejecting the use of NPCC's "composite cost allocation" methodology in order to determine the proportional cost between the United States and Canada. However, using the derived United States portion of the total amount for such costs, NERC and NPCC must apply and assess fees to entities in the United States using the approved NEL apportionment method. Because of the amount of time that has passed since NPCC first introduced its proposal, recognizing that only one commenter expressed concern regarding NPCC's cost allocation proposal and given our lack of detailed entity-specific information regarding allocated costs, the Commission will not undo NPCC's allocation of costs for 2009 based on the "composite allocation methodology." However, NPCC, in its 2010 business plan and budget, must apply cost allocation based on NEL within the United States.

42. Further, we accept NERC's "Expanded Policy on Allocation of Certain Compliance and Enforcement Costs" as it provides reasonable guidelines for cost allocations in specific circumstances described in the document. While the policy pertains to a "special allocation" that will only be available for jurisdictions outside the United States, application of the policy will likely affect cost allocation in the United States, as indicated by the current issue with regard to NPCC cost allocation. Accordingly, the Commission accepts the policy as requested by NERC.

F. WIRAB Business Plan and Budget

43. In the Budget Order, the Commission directed NERC and WIRAB to provide additional information explaining the increase in WIRAB's budget while expecting to have $214,562 in unspent funds at the end of 2008.[27]

44. In the compliance filing, NERC and WIRAB explain that WIRAB's proposed 2009 assessments to support the 2009 budget were reduced by the expected unspent funds at the end of 2008, namely, $214,562. WIRAB states that, as a result, although WIRAB's proposed 2009 budget is $595,810, its funding requirement for 2009 is only $378,272.

45. We conclude that WIRAB has sufficiently justified its proposed budget increase for fiscal year 2009.

G. Other Matters

46. The Commission accepts NERC's compliance filing with regard to all other matters that are not discussed above in this order.

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[27] Budget Order, 125 FERC ¶ 61,056 at P 61.

<u>The Commission orders</u>:

(A) NERC's compliance filing is hereby accepted in part and rejected in part, as discussed in the body of this order.

(B) NERC is hereby directed to make the status reports in its 2010 business plan and budget filing, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.