

**UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

North American Electric Reliability Corporation)

Docket No. RR07-16-000

**ADVICE OF THE
WESTERN INTERCONNECTION REGIONAL ADVISORY BODY
ON FEES AND CONSOLIDATED BUDGET PROPOSAL OF THE NORTH
AMERICAN ELECTRIC RELIABILITY CORPORATION**

The Western Interconnection Regional Advisory Body (WIRAB) submits advice to the Federal Energy Regulatory Commission (Commission) on the North American Electric Reliability Corporation's (NERC's) proposed Calendar Year 2008 budget for itself and the Western Electricity Coordinating Council (WECC).

Under Section 215(j) of the Federal Power Act, Regional Advisory Bodies, such as WIRAB, are authorized to provide advice to the Commission on "...whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest..."¹

The WIRAB offers advice on five subjects:

1. The NERC and WECC proposed budgets;
2. WECC budget reserves;
3. NERC budget development process;
4. The audiences for the products of Reliability Adequacy Assessments; and
5. Regional entity metrics.

¹ Section 215(j) of the Federal Power Act (FPA), 16 U.S.C. 824.

On August 31, 2007, NERC filed a corrected proposed consolidated 2008 budget proposal with the Commission.² The filing includes the proposed budgets of NERC, WECC, other Regional Entities, and WIRAB. The NERC 2008 budget for statutory functions under Section 215 of the Federal Power Act would grow from \$22,487,311 in 2007 to \$25,694,031 in 2008. The portion funded from Section 215 mandatory fees levied on U.S. entities would increase from \$19,755,180 to \$22,780,492. The WECC budget for statutory functions would grow from \$17,832,369 in 2007 to \$27,940,402 in 2008. The portion funded by mandatory fees on U.S. entities under Section 215 would increase from \$14,124,917 to \$22,515,832.

Issue 1: NERC and WECC Proposed 2008 Budgets

WECC and NERC appear to have underestimated the cost of implementing a compliance program. There are 477 registered entities within the WECC region, 27 percent of all entities registered under Section 215. As of July 18, 2007, there were 2,614 reported violations in WECC in 2007, 54 percent of reported violations in all regions.³ The number of registered entities and reported violations vastly exceeded expectations.

Since the implementation of mandatory standards in the U.S. on June 18, 2007 or June 25, 2007,, none of the reported violations have been fully resolved through the enforcement process. No alledged violations have gone through the hearings appeals process.

² Request of the North American Electric Reliability Corporation for Acceptance of its 2008 Business Plan and Budget and the 2008 Business Plans and Budgets of Regional Entities and for Approval of Proposed Assessments to Fund Budgets, Federal Energy Regulatory Commission Docket No. RR07-16-000, Aug. 31, 2007.

³ August 1, 2007 presentation by David W. Hilt to the NERC Board of Trustees.

The initial enforcement experience of mandatory standards has generated questions about the interpretation of requirements and measurements even for those standards with defined measures. The enforcement of FERC-approved standards which lack measurements will raise more interpretation questions. WIRAB expects there will be a significant increase in WECC's workload to resolve the large number of disputes over interpretation of reliability standards.

In recognition of the unexpected work load, on July 27, 2007 the WECC Board approved an amendment to the 2008 proposed budget it provided to NERC. The amendment increased the proposed 2008 budget by approximately \$2.5 million⁴. On August 1, the NERC Board approved the amended WECC 2008 budget.

In 2007, WECC is funding the unexpected compliance workload through its reserve funds. The proposed 2008 WECC budget will replenish the reserves spent in 2007.

Adequate financial resources are a necessary, but not a sufficient condition, to ensure a robust compliance program. WECC, like NERC, is having difficulty attracting qualified staff. Qualified staff is in short supply and will likely continue to be because entities subject to the mandatory standards are also seeking to increase their internal capabilities to comply with the mandatory standard. Salaries may need to be increased to attract qualified personnel.

WECC's proposed 2008 budget anticipates the completion of the Westwide System Model and additional steps to implement WECC's Reliability Center Strategic Initiative. Implementing two robust, independent Reliability Centers should be and is a

⁴ Approximately \$1.5 million of the increase is for compliance activities. Another \$1 million is for accelerated implementation of parts of the WECC Reliability Center initiative.

WECC priority. WIRAB will continue to monitor the progress that WECC is making in implementing the Reliability Center Strategic Initiative.

WIRAB Recommendation

WIRAB recommends that FERC approve the NERC and WECC proposed 2008 budgets.

Issue 2: WECC Budget Reserves

As discussed in Issue 1, WECC is spending reserve funds in 2007 to address the unexpected compliance and enforcement work load. Thus, WECC expects to overspend its 2007 budget by \$1,120,941.

NERC's general policy is that unexpended reserves at the end of a budget year be used to offset required revenues in the next budget year. However, NERC has said that it does not believe that this policy should be implemented during the transition from the 2007 budget to the 2008 budget.

WIRAB Recommendation

WIRAB recommends that FERC concur with NERC's policy that unexpended reserves from the 2007 budget should not be used to offset required revenues in 2008. Given the uncertainty in compliance costs, this policy may need to be extended to the transition between from the 2008 budget to the 2009 budget.

There remain very large fiscal uncertainties associated with the cost of implementing the WECC compliance program. WIRAB believes there will be more unanticipated compliance costs in 2008, as there have been in 2007. Maintaining

adequate reserves is a financially and administratively prudent way to address unanticipated compliance costs in 2008.

Issue 3: NERC Budget Development Process

The process NERC used to develop its 2008 budget provided greater opportunities for Regional Entities and others to review proposals and offer suggested changes. A number of such changes were accepted by NERC and are reflected in the final proposed budget.

NERC included in its submission to FERC an estimate of expenditures in 2009 and 2010. These were staff-developed budget estimates and were not approved by the NERC Board. NERC also included its work plan and those of the Regional Entities to the budget submission.

These changes in the NERC budget process provide greater transparency and a clearer understanding of the program direction supported by the budget request.

WIRAB Recommendation

WIRAB recommends that FERC encourage NERC to continue to implement the budget process used in the development of the 2008 budget.

WIRAB recommends that FERC encourage WECC to develop three-year estimates as part of its 2009 budget submission.

Issue 4: Audiences for NERC Reliability Adequacy Assessments

Section 215(g) of the Federal Power Act requires the Electric Reliability Organization to "...conduct periodic assessments of the reliability and adequacy of the

bulk-power system in North America.” In its *2008 Business Plan and Budget*, NERC failed to identify State governments as one of the key audiences for the annual and season reliability assessments.⁵

WIRAB Recommendation

WIRAB recommends that FERC direct NERC to include State governments as entities it and Regional Entities should engage in the preparation and dissemination of reliability and adequacy assessments to ensure that the assessments provide information needed for States to act.

The NERC and Regional Entity reliability adequacy assessments can provide useful information for state energy and regulatory agencies. State agencies and market participants are the only parties in the United States which can act to correct generation or transmission deficiencies identified in the assessments. Neither the Commission, nor NERC, nor Regional Entities have the legal authority to order the construction of new facilities.

Thus, if NERC and Regional Entity reliability adequacy assessments are to spur action to resolve problems that are identified, then the assessments need to be tailored to the needs of those who can act on the information. NERC should amend its *Business Plan and Budget* by explicitly citing States as parties NERC will engage in the development and dissemination of reliability adequacy assessments.

Issue 5: Regional Entity Metrics

⁵ “Reliability and Adequacy Assessment Objectives...Establish and maintain relationships with industry, regulatory, and governmental organizations involved with or having an interest in bulk power system reliability (e.g., DOE, FERC, EIA, RTOs/ISOs, Canadian provincial governmental agencies, etc.)” *2008 Business Plan and Budget*, page 24. This same statement is repeated in Attachment 4 regarding NERC goals.

It its *2008 Business Plan and Budget*, NERC included metrics that compare how Regional Entities are addressing various challenges (Attachment 7, Metrics Relating to Regional Entity Business Plans and Budgets).

Comparison information can be useful in better understanding processes used by different entities and identifying innovation and better ways of achieving objectives. Comparison information can also be easily abused by central authorities, such as NERC and FERC, when central authorities draw conclusions from the comparative information without adequately understanding the underlying processes that give rise to differences.

WIRAB Recommendation

WIRAB recommends the Commission encourage NERC to continue to provide regional metrics with the understanding that such comparisons are most useful for identifying different approaches which Regional Entities are taking to achieve the goals of Section 215. Such metrics should not be used to force uniformity that does not improve reliability. WIRAB recommends that FERC request that NERC provide in its *Business Plan and Budget* illustrations on how the metrics might be used.

Dated this 21st day of September, 2007.

Respectfully submitted,

A handwritten signature in black ink that reads "John F. Savage". The signature is written in a cursive, flowing style.

John Savage, Chairman
Western Interconnection Regional Advisory Body