

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

North American Electric Reliability Corporation)

Docket No. RR08-6-000

**Advice of the Western Interconnection Regional Advisory Body on the
Request of the North American Electric Reliability Corporation for Acceptance of
its 2009 Business Plan and Budget and the 2009 Business Plans and Budgets of
Regional Entities and for Approval of Proposed Assessments to Fund Budgets**

The Western Interconnection Regional Advisory Body (WIRAB) submits advice¹ to the Federal Energy Regulatory Commission (Commission) on the North American Electric Reliability Corporation's (NERC's) proposed Calendar Year 2009 budget for itself and the Western Electricity Coordinating Council (WECC).

The WIRAB offers advice on three subjects:

1. The NERC and WECC proposed 2009 budgets;
2. Regional Entity metrics; and
3. NERC's budget development process.

On August 22, 2008, NERC filed a proposed consolidated 2009 budget proposal with the Commission.² The filing includes the proposed budgets of NERC, WECC, other Regional Entities, and WIRAB. The NERC budget would grow to \$34,447,620 in 2009,

¹ Under Section 215(j) of the Federal Power Act, Regional Advisory Bodies, such as the Western Interconnection Regional Advisory Body (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...."

² Request of the North American Electric Reliability Corporation for Acceptance of its 2009 Business Plan and Budget and the 2009 Business Plans and Budgets of Regional Entities and for Approval of Proposed Assessments to Fund Budgets, Docket No. RR08-6-000, August 22, 2008 ("NERC 2009 Consolidated Budget").

a 30 percent increase over 2008. The portion funded from Section 215 mandatory fees levied on U.S. entities would increase to \$28,668,409. The WECC budget for statutory functions would grow to \$38,691,767 in 2009, a \$6,019,893 increase over its 2008 budget. This translates into a 39% increase in assessments compared with 2008. In 2009, WECC will have 144 employees, with the biggest increase coming in Compliance which increases from 20 to 30 FTEs.

Issue 1: NERC and WECC Budget Proposals

Below we offer observations about some of the key budget items in the NERC and WECC budget proposals.

Continuing Compliance Cost Uncertainties: While compliance budgets at WECC and NERC increased in the 2008, it remains unclear if those increases will be sufficient to meet the requirements of the complex compliance and enforcement program established under Section 215. There are 465 registered entities within the WECC region, 27 percent of all entities registered under Section 215.³ As of July 21, 2008, there were 1253 reported violations in WECC since June 2007, an amount equal to 70 percent of reported violations in all NERC regions.⁴ 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), few alleged violations have been resolved. Implementation of Section 215 has been hampered by problems of interpretation of vague standards and requirements, inadequate feedback to Registered Entities on what constitutes compliance

³ *NERC Compliance Monitoring and Enforcement Program, 2007 Annual Report*, p. 13.

⁴ July 29, 2008 meeting of the NERC Board of Trustees Compliance Committee.

and how the compliance program operates in practice, failure of some Registered Entities to put in place internal controls to meet standards, and inadequate manpower to execute the compliance program. We believe that some of these problems will be alleviated over time. However, new challenges to the compliance program, such as implementation of the CIP standards, will add budget uncertainty. We believe that NERC and the Commission must be flexible in allowing adjustments to budgets.

In 2008, WECC is funding the unexpected enforcement workload increase through its reserve funds. We are concerned that the proposed 2009 WECC budget will not result in a level of reserves sufficient to meet the recommendation of WECC auditors.⁵ Again, this underlines the need for NERC and Commission flexibility to accommodate future budget adjustments.

WECC Reliability Centers: WIRAB is very pleased with the progress in implementing the two new Reliability Centers in the Western Interconnection. Implementation of the Centers is on time and on budget. The new Reliability Centers will be independent of market participants, have an interconnection-wide view, and be capable of backing up one another. The progress in implementing the Centers was enabled by the willingness of the Commission to approve WECC's proposal for a line of credit in 2008 to accelerate the implementation of the Centers and reduce total expenditures for the Centers.

Assessments: WECC's capacity to assess the reliability of the western grid and to study transmission expansion is improving. The proposed 2009 budget will enable

⁵ In its filing NERC said that "WECC determined to request an additional assessment amount of only \$1,000,000 towards establishing a reasonable statutory working capital reserve, even though a much higher amount could be justified based on a target working capital reserve equal to three months of cash expenses. As a result, WECC projects it will have a statutory working capital reserve of approximately \$124,000 at December 31, 2009." NERC 2009 Consolidated Budget, page 59.

more progress to be made. Improving assessment capabilities is essential to grid reliability given expected additional limitations on greenhouse gas emissions.

While the process for public review of WECC's assessments of resource adequacy through the Power Supply Assessment and WECC submissions to NERC's Long-Term Reliability Assessment (LTRA) is improving, NERC does not have a comparable process for public review prior to release of its LTRA. Western states and provinces would be more willing to rely on the conclusions of the NERC LTRA if such findings were subject to a public review process. A public process for reviewing NERC assessments will be particularly important in 2009 because NERC intends to significantly increase its budget in this area and hire a consultant to expand its analysis of the impact of greenhouse gas legislation.⁶

Standards Development: WECC has made significant strides in helping to expand the participation of western Registered Entities in the NERC standards development process. The proposed 2009 budget will sustain this effort.

WIRAB is concerned with delays at NERC in approving and forwarding to the Commission proposed interconnection-wide regional standards. WIRAB is uncertain if this is a budget constraint at NERC or a failure to expeditiously implement the provisions of Section 215, which requires NERC to defer to proposed interconnection-wide regional standards.

Readiness Program: NERC proposes to phase out the Readiness Evaluation and Improvement Program in 2009 because according to NERC: the value of the program is diminishing; NERC considers compliance and enforcement a higher priority; and there is

⁶ NERC 2009 Consolidated Budget, page 34-35.

perception of a conflict of interest between the Readiness Program and the enforcement function. NERC suggests that other entities, such as the Transmission Owners and Operators Forum, might be a better home for this type of assistance program. The decision to phase out the Readiness Program in the first quarter of 2009 may be appropriate. However, WIRAB observes that the one alternative suggested by NERC, the Transmission Owners and Operators Forum, consists primarily of large transmission owners and operators. The Forum will not serve the needs of other types of Registered Entities. Additionally, the Forum's very restrictive confidentiality requirements limit its ability to be an effective mechanism for transferring information to a broader audience.

WIRAB Recommendation

WIRAB recommends that the Commission approve the NERC and WECC proposed 2009 budgets. WIRAB recommends that NERC and the Commission continue to be responsive to needed budget adjustments to address new contingencies.

Issue 2: Metrics and Cost-Effectiveness of Standards and Enforcement Program

The cost of implementing Section 215 has escalated very rapidly. WIRAB recognizes that these increases are necessary to implement the programs established under Section 215. WIRAB believes that these increases are reasonable. However, WIRAB remains concerned⁷ there is little evidence that the expenditure of funds is improving reliability.

⁷ In its July 25, 2006 advice to FERC, WIRAB stated "...in the long-term, judgments on whether standards are in the public interest should be based on assessments of whether the benefits society derives from

WIRAB has supported the development of metrics to enable comparisons among Regional Entities,⁸ a view shared by the Commission.⁹ The metrics presented in the NERC 2009 Business Plan and Budget are another step on the path toward improved metrics. NERC plans to expand the metrics in 2010.

Unfortunately, much of the focus of the metrics has been on budget minutia, which may be important as a cross check on topics like overhead rates, but does little to address the larger questions of whether Section 215 is providing an adequate “bang for the buck.”

WIRAB Recommendation

WIRAB recommends that the Commission direct NERC to continue to develop regional performance metrics and that in the 2010 budget NERC be required to present more informative workload metrics. WIRAB also recommends that the Commission direct NERC and WECC to begin the more difficult task of linking workload metrics to measurements of improvement in reliability, the ultimate goal of expenditures under Section 215.

achieving compliance with a standard exceed the costs to society of implementing the standard.”

<http://www.westgov.org/wirab/advice/2006/07-25-06advice.doc>

⁸ Advice of the Western Interconnection Regional Advisory Body on Fees and Consolidated Budget Proposal of the North American Electric Reliability Corporation, September 21, 2007, p. 7.

<http://www.westgov.org/wirab/advice/2007/09-21-07advice.pdf>

⁹ North American Electric Reliability Corp., 121 FERC ¶ 61,057, Order Conditionally Accepting 2008 Business Plan and Budget of the North American Electric Reliability Corporation and Ordering Compliance Filings, October 18, 2007, Docket No. RR07-16-000, P 35.

Issue 3: NERC Budget Development Process

The process NERC used to develop its 2009 budget provided significant opportunities for outside parties to review the proposed budget and offer suggested changes. NERC included in its budget submission an explanation of how such comments were addressed.

WIRAB Recommendation

WIRAB recommends that the Commission support continuation of the open NERC budget development process.

Dated this 1st day of October, 2008.

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