

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
and Jon Wellinghoff.

North American Electric Reliability Corporation

Docket No. RR06-3-001

ORDER ON REHEARING AND ESTABLISHING TECHNICAL CONFERENCE

(Issued February 15, 2007)

1. On November 24, 2006, the Western Electricity Coordinating Council (WECC), Pacific Gas and Electric Company and Southern California Edison Company (collectively, Petitioners) jointly filed a request for rehearing of the Commission's order issued on October 24, 2006 addressing the North American Electric Reliability Corporation's (NERC) first proposed business plan and budget as the Electric Reliability Organization (ERO).<sup>1</sup> Petitioners seek rehearing of a single aspect of the October 24 Order, the decision that WECC's reliability coordinator activities should not receive mandatory funding through the ERO. In this order, we direct the Commission staff to convene a technical conference to discuss the issues raised in Petitioners' request for rehearing concerning WECC's reliability coordinator activities. The Commission will address Petitioners' request for rehearing in a future order after the technical conference.

**Background**

2. In a July 20, 2006 order, the Commission certified the North American Electric Reliability Council, on behalf of its wholly-owned subsidiary, NERC as the ERO.<sup>2</sup> On

---

<sup>1</sup> *North American Electric Reliability Corporation*, 117 FERC ¶ 61,091 (2006) (October 24 Order).

<sup>2</sup> *North American Electric Reliability Corporation*, 116 FERC ¶ 61,062, *order on reh'g*, 117 FERC ¶ 61,126 (2006). North American Electricity Reliability Council has merged into NERC.

August 23, 2006, NERC filed its proposed 2007 business plan and budget as well as the proposed 2007 business plans and budgets of eight anticipated Regional Entities.

3. In the October 24 Order, the Commission conditionally accepted the proposed budgets and the ERO's business plan. The Commission determined that the activities identified by NERC should be funded through the ERO as statutory under section 215 of the Federal Power Act (FPA).<sup>3</sup> In addition, the October 24 Order approved the NERC funding request of \$66,425,996 for operation in the United States for fiscal year 2007, less the \$6.9 million requested by WECC for WECC's reliability coordinator activities.<sup>4</sup>

4. With respect to the \$6.9 million requested by WECC for its reliability coordinator activities, the October 24 Order held:

Although WECC's reliability coordinator function is independent of control areas, we are not persuaded that, in its current form, WECC's real-time reliability coordinator function should be funded under section 215 of the FPA. WECC's justification that its role as a reliability coordinator is similar to NERC's situational awareness activity is not persuasive. While WECC's reliability coordinators are involved in real-time operations of the bulk-power system, NERC's situational awareness activity is narrow in scope and limited to such things as providing tools and support services for the use and benefit of reliability coordinators and other bulk-power system operators. Moreover, NERC makes it clear that it has no intentions of becoming involved in real-time operations.

WECC's claim that as a reliability coordinator, it is subject to 137 requirements of NERC's proposed reliability standards is also not convincing as to why its reliability coordinator function should be treated as a statutory activity. Unless there is a strong separation between oversight and real-time operations, the same entity should not oversee its

---

<sup>3</sup> *To be codified at* 16 U.S.C. § 824o.

<sup>4</sup> NERC defines "reliability coordinator" as "the entity that is the highest level of authority who is responsible for the reliable operation of the Bulk Electric System, has the Wide Area view of the Bulk Electric System, and has the operating tools, processes and procedures, including the authority to prevent or mitigate emergency operating situations in both next day analysis and real-time operations. . . ." See NERC Glossary of Terms at 11.

own compliance with reliability standards. We are not persuaded that is the case here. Therefore, we exclude \$6.9 million of WECC's proposed budget from funding under FPA section 215.

We disagree with CREPC and WIRAB that a Regional Entity must fund reliability coordinator functions in order for it to maintain situational awareness. A reliability coordinator participates in operations but a Regional Entity can maintain situational awareness without participating in actual operational decisions. Also, funds collected by the ERO under section 215 should not be used to pay for entities to meet reliability standards. The potential problems of free riders, independence, and duplicative mechanisms may need to be addressed, but they should be addressed through other approaches. Funds collected under section 215 should be used for ERO and Regional Entity statutory responsibilities such as developing and enforcing reliability standards, not implementing reliability standards.<sup>[5]</sup>

### **Petitioners' Request for Rehearing**

5. As noted above, Petitioners seek rehearing of the Commission's determination that WECC's reliability coordinator activities are not statutory and therefore may not be funded through the ERO under section 215 of the FPA. According to Petitioners, the Commission's determination was made on the basis of a misunderstanding of the WECC reliability coordinator functions. They explain that the WECC reliability coordinators are primarily involved in situational awareness and are not directly involved in operations because they rely on other entities to carry out their operational directives and they are not involved in the day-to-day operation of the grid. Petitioners state that the three WECC reliability coordinators, each located in a "host" facility, are operated and funded separately from its host, and WECC compensates the host for use of its facilities.

6. Petitioners argue that WECC's reliability coordinator function is clearly within the scope of functions to be funded under section 215 of the FPA. They state that under section 215(c)(1)(b) of the FPA, the ERO as well as a Regional Entity can "allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section." Petitioners contend that, by denying funding of the WECC reliability coordinators, which perform a statutory function, *i.e.*, situational awareness and wide area monitoring, the Commission has prevented WECC from having the ability to allocate equitably the costs of that function to all end users.

---

<sup>5</sup> October 24 Order at P 51-53 (footnotes omitted).

7. Further, according to Petitioners, the failure to allow mandatory funding of the WECC reliability coordinator activities through the ERO will create significant funding uncertainty and thereby undermine the effectiveness of the reliability coordinators. They state that, absent funding through the ERO, WECC will have to continue to depend upon voluntary funding from WECC members to fund the reliability coordinators. Further, Petitioners raise the concern that voluntary funding may give entities overseen by the reliability coordinators a significant role in their funding, creating the appearance or reality of a conflict of interest.

8. In response to the Commission's concerns stated in the October 24 Order, Petitioners state that WECC will not oversee its own compliance with reliability standards that apply to reliability coordinators. Rather, they state that NERC will audit the WECC reliability coordinator function for compliance.

### **Procedural Matters**

9. Comments supporting Petitioners' request for rehearing were filed by the Western Interstate Energy Board, Committee on Regional Electric Power Cooperation; the Western Governors' Association; Arizona Public Service Company; Portland General Electric Company; Public Utility District No. 1 of Chelan County, Washington; PacifiCorp; Alberta Electric System Operator; and Sierra Pacific Power Company and Nevada Power Company. The Western Interconnection Regional Advisory Body (WIRAB) submitted a filing advising that the Commission should grant Petitioners' request for rehearing.

10. Both the comments and WIRAB filing represent untimely requests for rehearing or impermissible answers to Petitioners' request for rehearing. However, they have been placed in the public file for Docket No. RR06-3-001.

### **Discussion**

11. Based on our review of Petitioners' request for rehearing, the WECC reliability coordinator model may be superior to other regional reliability coordinator models. Under WECC's approach, reliability coordinators appear to be independent from users, owners and operators of the Bulk-Power System and report directly to WECC, not to the host entities.<sup>6</sup> The reliability coordinators' independence from users, owners and

---

<sup>6</sup> Petitioners argue that WECC's reliability coordinators are funded entirely through WECC and not through the tariff rates of the Balancing Authorities and Transmission Operators that they oversee as are all other reliability coordinators. Rehearing Request at 3.

operators of the Bulk-Power System is an important factor in ensuring the reliability of the grid. NERC's functional model points out that a lack of independence may introduce an actual or perceived lack of accountability in the administration of the reliability coordinator.<sup>7</sup> Further, in the NERC White Paper, NERC's Control Area Criteria Task Force recommended that reliability coordinators have both physical and corporate separation and thus be independent of the users, owners and operators of the Bulk-Power System.<sup>8</sup> WECC's reliability coordinator structure appears to provide for corporate separation from users, owners and operators, which allows for greater independence of judgment in making decisions necessary for Bulk-Power System reliability in the Western Interconnection.

12. While Petitioners' pleading addresses a number of concerns regarding funding of the WECC reliability coordinators expressed in the October 24 Order, and the Commission sees benefits from WECC's approach, the Commission also has a number of specific concerns regarding WECC's reliability coordinator activities. There are several details about WECC's funding request that are not yet clear. For example:

- Petitioners state that WECC will not oversee its own compliance with reliability standards that apply to reliability coordinators and, rather, NERC will audit the WECC reliability coordinator function for compliance. Petitioners, however, provide no details of how this ERO oversight would actually occur, including whose employees would perform the audits.
- More explanation is needed on how WECC's reliability coordinator employees are corporately and physically independent of users, owners and operators of the grid (e.g., although they are on the WECC payroll, they may be employees "on loan" from a utility and still receiving a pension and benefits from the permanent employer).
- Under NERC's functional model, reliability coordinators are operators of the Bulk-Power System, and subject to certain requirements of Reliability Standards. WECC notes that its reliability coordinators are subject to 137 such requirements.

---

<sup>7</sup> Independence Considerations for Organizations Performing Reliability Functions, A Report from the Control Area Criteria Task Force to the NERC Board of Trustees, February 2, 2001 (NERC White Paper). In 2001, reliability coordinators were referred to as security authorities.

<sup>8</sup> *Id.*

In the Commission's proposed rulemaking on Reliability Standards<sup>9</sup> and elsewhere, the Commission expressed concern about the applicability of Reliability Standards to Regional Entities, who are not users, owners or operators of the Bulk-Power System. WECC should explain whether the WECC reliability coordinators would be subject to penalties for non-compliance as an operator of the Bulk-Power System, or whether a different enforcement/compliance mechanism (such as contractual through the delegation agreement) is anticipated. Further, WECC should explain how a monetary penalty assessed against a reliability coordinator for non-compliance with a reliability standard would be funded.

- More information is needed on billing and allocation questions such as whether the \$6.9 million would be adjusted for a partial year now that 2007 has started, and who would perform the billing calculations and invoicing.

13. The Commission believes that a more fully informed understanding of the WECC reliability coordination function would be beneficial in our ruling on Petitioners' request for rehearing. Accordingly, we direct the Commission staff to convene a technical conference to consider the issues identified above and other matters relevant to Petitioners' request for rehearing.

The Commission orders:

Commission staff is hereby directed to convene a technical conference to further explore whether WECC's reliability coordinator activities should be funded through the ERO, as discussed in the body of this order.

By the Commission. Commissioner Moeller not participating.

( S E A L )

Magalie R. Salas,  
Secretary.

---

<sup>9</sup> *Mandatory Reliability Standards for the Bulk-Power System*, Notice of Proposed Rulemaking, 71 Fed. Reg. 64,770 (Nov. 3, 2006), FERC Stats. & Regs., ¶ 32,608 at P 55-56 (2006).