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

North American Electric Reliability Corporation)
) Docket No. RR22-4-000
)

**ANSWER OF THE NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION TO THE EDISON
ELECTRIC INSTITUTE’S
SEPTEMBER 13, 2022 MOTION TO INTERVENE AND
COMMENTS**

Pursuant to Rules 212 and 213 of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Rules of Practice and Procedure,¹ the North American Electric Reliability Corporation (“NERC”) moves for leave to answer the motion to intervene and comments of the Edison Electric Institute (“EEI”) on September 13, 2022.² Although the Commission’s procedural rules generally do not allow for answers to answers,³ the Commission may permit them for good cause. The Commission has accepted answers that facilitate the decisional process or aid in the explication of issues, and has explained that it will accept answers that “assist[] in our decision-making process.”⁴ NERC requests that the Commission accept this answer to clarify the record

¹ 18 C.F.R. §§ 385.212 & 385.213 (2022).

² The Motion to Intervene and Comments was submitted by the Edison Electric Institute on September 13, 2022.

³ 18 C.F.R. §§ 385.213(a)(2) & 385.713(d)(1).

⁴ *Columbia Gas Transmission, LLC*, 146 FERC ¶ 61,116 at P 1 n.3 (2014), pet. for review denied, *Gunpowder Riverkeeper v. FERC*, 807 F.3d 267 (D.C. Cir. 2015); see also *Algonquin Gas Transmission Co.*, 83 FERC ¶ 61,200, at 3 n.2 (1998) (accepting an answer in order to ensure “a complete and accurate record”), order amending certificate, 94 FERC ¶ 61,183 (2001); *Transwestern Pipeline Co.*, 50 FERC ¶ 61,211, at 3 n.5 (1990) (citing *Buckeye Pipe Line Co.*, 45 FERC ¶ 61,046 (1988)) (accepting an answer “where consideration of matters sought [will be] addressed in the answer will facilitate the decisional process or aid in the explication of issues.”).

around the extensive stakeholder coordination involved in developing the NERC business plan and budget (“BP&B”) as well as details about how the E-ISAC’s activities and programs are funded.

I. NERC IS COMMITTED TO PUBLIC ACCOUNTABILITY FOR ITS BUSINESS PLAN AND BUDGET.

Since its certification as the Electric Reliability Organization, NERC has been committed to public accountability for the development of its BP&B and ongoing use of resources. This is an extensive process that begins with the development of the budget and continues after the budget is approved, with quarterly actual-to-budget variance reports and other follow-up activities and interactions with stakeholders. All of these processes are done under the oversight of the NERC Board of Trustees and several of its committees, including the Finance and Audit Committee (“FAC”), Corporate Governance and Human Resources Committee, and the Technology and Security Committee (“TSC”).

NERC is pleased that EEI acknowledges that it is critical to support NERC in allocating resources to address emerging risks as well as to ensure that NERC remains agile, effective, and efficient. Over the course of the extensive stakeholder process leading up to the 2023 budget, there was not significant debate or objection as to whether the focus areas of investment proposed by NERC were the right ones and that the investments were needed to allow NERC to meet its critical mission.

In its September 13, 2022 comments, EEI suggests that there is a need for an additional layer to NERC’s existing public accountability mechanisms. EEI recommends a “post budget review” to analyze the effectiveness of expenditures, particularly new ones, through key performance indicators or metrics. This recommendation does not seem to take into account any

existing reporting and oversight processes and could result in additional recordkeeping processes that will consume existing limited resources and potentially further increase NERC's budget.

NERC goes beyond the certification requirements for the BP&B process to engage stakeholders⁵ and incorporates transparency into both the preparation of the budget as well as reporting after the budget has been filed. It involves a public informational webinar, a public posting and comment period, management responses to public comments, quarterly actual-to-budget variance reports, and an annual true-up report. Outside of formal postings and webinars, NERC's accountability mechanisms during BP&B development include collaboration with stakeholder subgroups prior to filing, which include EEI members. NERC's Member Representatives Committee ("MRC") BP&B Input Group was formed specifically to incorporate feedback from stakeholders during annual BP&B preparation, and this group meets multiple times throughout the BP&B development process. Stakeholder involvement has also extended to certain capital investments NERC has made, such as the Compliance Monitoring and Enforcement Program. For example, NERC formed the Align User Group comprised of key stakeholders to provide input and prioritization on future technology investments for two significant ERO systems – the Align and the Secure Evidence Locker tools. Cyber investments, another significant area in the budget, receive input from a stakeholder-comprised Security Advisory Group. Major investments are subject to a business evaluation process with oversight of NERC's TSC and FAC. Additional investments and operating budgets for the Electricity Information Sharing and Analysis Center ("E-ISAC"), including the Cyber Risk Information Sharing Program ("CRISP"), are reviewed and endorsed by the Electricity Subsector Coordinating Council's ("ESCC") Members

⁵ 18 C.F.R. § 39.4(b) requires NERC to file its BP&B with the Commission for approval at least 130 days prior to the start of the next fiscal year (i.e., January 1 of every fiscal year). Article XIII(4) of NERC's Bylaws only require it to provide one stakeholder opportunity to review its BP&B that is at least 30 days prior to its Board of Trustees meeting approving its BP&B prior to filing with the Commission.

Executive Committee (“MEC”).

NERC recognizes the value of showing indicators of progress toward an intended result of its investments, particularly given the ERO’s funding structure and projections for budget growth. In its discussions with stakeholders during the 2023 development process, and in its response to comments received on the draft 2023 BP&B, NERC indicated that it will continue to work with the MRC BP&B Input Group to identify qualitative and quantitative ways to illustrate NERC’s value relative to its budget. NERC also indicated plans to learn more about the budgeting and structural governance of similar sized organizations, like the trade associations, and how they measure progress against investments. NERC requests that the Commission allow these planning and coordination efforts to continue during the 2024 BP&B planning process.

II. THE E-ISAC BUDGET IS DETAILED AND TRANSPARENT AND DOES NOT CREATE SUBSIDIES SHOULDERED BY ELECTRICITY CUSTOMERS.

In its comments, EEI recognizes that the E-ISAC is an “increasingly important tool” for the electricity industry. While EEI does not object to the proposed increase to the E-ISAC budget for 2023, it states that “[e]nsuring its value proposition relative to the budget increase warrants detailed explanation and transparency.” More specifically, EEI states that “[a]ll expenses associated with the E-ISAC, including ‘indirect expenses’ should be detailed in separate line items in the E-ISAC section of the budget.” It is important to note that at the request of stakeholders, including members of EEI, the E-ISAC has been enhancing its engagement with other critical infrastructure sectors. As EEI notes, continued collaboration between the electricity and other critical infrastructure sectors is necessary to maintain and to enhance Bulk-Power System (“BPS”) security. The E-ISAC is committed to fully supporting the electricity sector and ensuring that any collaboration enhances the electricity sector’s ability to maintain and develop a more secure BPS and does not erode the services the E-ISAC provides the electricity sector.

NERC is also committed to transparency and demonstrating the value propositions relative to the budget increase. To that end, NERC provided further details on the E-ISAC's funding and indirect cost allocation structure to the NERC Board of Trustees and the ESCC's MEC and also added discussion to the E-ISAC section of the 2023 BP&B.

Funding provided by the electricity sector does not subsidize support provided to other sectors. The natural gas industry currently provides funding to the E-ISAC to support their collaboration with the E-ISAC through information sharing and threat analysis. The E-ISAC commits to evaluate current funding streams as well as additional funding models as our collaboration continues and the need for other services or collaborative efforts potentially arise. Indirect costs (i.e., the budgets of the administrative/corporate services areas which are included in the BP&B) are allocated to all NERC statutory program areas the same way, which is based on the ratio of a statutory department's FTEs to total budgeted statutory FTEs. There are no specific indirect costs that E-ISAC or CRISP incur that other departments do not, even with the collaboration with the natural gas ISAC. Therefore, separate line items in the E-ISAC section of the budget for indirect costs is unnecessary.

III. CONCLUSION

NERC respectfully requests that the Commission accepts NERC's answer to the motion to intervene and comments of EEL.

Respectfully submitted,

/s/ Nina H. Jenkins-Johnston

Nina Jenkins-Johnston
Assistant General Counsel
North American Electric Reliability
Corporation
3353 Peachtree Road NE, North Tower,
Suite 600
Atlanta, GA 30326

Stefan Bergere
Counsel
North American Electric Reliability
Corporation
1401 H Street NW, Suite 410
Washington, DC 20005
(202) 400-3000
stefan.bergere@nerc.net

*Counsel for the North American Electric
Reliability Corporation*

Date: September 27, 2022

CERTIFICATE OF SERVICE

I hereby certify I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 27th day of September 2022.

/s/ Nina H. Jenkins-Johnston

Nina Jenkins-Johnston
Senior Counsel
North American Electric Reliability
Corporation
1401 H Street NW, Suite 410
Washington, DC 20005
(202) 400-3000
nina.johnston@nerc.net

*Counsel for the North American Electric
Reliability Corporation*