

**Date:** August 10, 2009  
**To:** Texas RE Board of Directors  
**From:** Larry Grimm, Texas RE CEO and CCO  
**Subject:** Approval of Supplemental Budget for Technical Feasibility Exceptions

**Texas Regional Entity Board of Directors Meeting Date:** August 17, 2009

**Agenda Item No.:** 5b

**Issue:**

Approval of supplemental 2010 budget for processing and evaluating Technical Feasibility Exceptions (TFEs).

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**Background/History:**

At the time the Texas Regional Entity (Texas RE) 2010 Business Plan and Budget were developed, posted for stakeholder comment, and submitted to and approved by the Board, North American Electric Reliability Corporation (NERC) anticipated that the processing of TFEs would be handled centrally by NERC staff and thus significant Regional Entity resources would not be required for this work. Based upon feedback and input (from market participants and several regional entities) NERC received in response to the public posting of its proposed 2010 Business Plan and Budget, NERC revised this approach and directed the Regional Entities to develop proposed budgets allowing them to process and review TFEs.

A TFE is a procedure by which a registered entity to which NERC Critical Infrastructure Protection (CIP) standards apply may request and receive approval for an exception from the terms of certain (12) requirements of the CIP Standards on the grounds of technical feasibility or technical limitations. Under the new NERC requirement, Texas RE will need to receive, review, and screen all TFEs from the registered entities in the ERCOT region. Texas RE will then do a detailed review of any TFEs that are conditionally accepted. The processing of TFEs is expected to begin in September 2009.

Although NERC issued general guidance regarding the intended process for submitting and processing TFEs in July, there is still great uncertainty regarding the workload requirements, longevity, and other evolving issues associated with the processing, evaluating, and coordinating of TFEs, such as the number of TFEs that will be filed in the ERCOT region and the amount of time that will be required to process and evaluate each TFE. Processing TFEs requires:

- Prompt preliminary screening of the TFE and included mitigating measures for completeness and reasonableness
  - Registered entities will be permitted to re-submit initially rejected TFEs (within 30 days) with additional information
- A thorough review of each initially accepted TFE (including proposed mitigating measures) by audit or spot check (currently within 360 days)
- Tracking of TFEs and coordination with other Regional Entities for consistency and efficiency

Texas RE will require additional resources prior to, during, and beyond 2010 to process and review the anticipated TFEs. Based upon the information available to Texas RE currently, Texas RE anticipates that it will require approximately 56 hours to process each TFE. It

estimates that the 48 registered entities that have declared critical assets in the ERCOT region will file an average of five (5) TFEs, totaling an estimated 240 TFEs requiring review. Based upon these estimates, Texas RE will need to increase its 2010 budget by 4 full time equivalents (FTEs) or \$784,152 (including reserves of \$132,949) for the required processing of TFEs which will begin in 2009.

The 2010 Business Plans and Budgets of NERC and all Regional Entities are required to be filed with the Federal Energy Regulatory Commission on August 24, 2009 and are scheduled to be approved by the NERC Board of Trustees on August 20, 2009. Because the TFE work is now required of the Regional Entities under the Delegation Agreement, Texas RE (along with the other Regional Entities) must increase its 2010 budget by the amount that will adequately permit it to accomplish the required processing and evaluation of TFEs in 2010. Funding to carry out these activities for the remainder of 2009 is proposed to be from prior years' unspent funds.

Texas RE respectfully requests that the Board approve a supplemental budget amount for its 2010 budget, in the amount of \$784,152. This would increase the 2010 Texas RE Business Plan and Budget as follows (details are included in Board materials):

|   |                    |
|---|--------------------|
| 2010 Statutory Budget (approved in June): | \$8,041,359        |
| Supplemental Budget for TFEs:             | \$ 784,152         |
| <b>New Total 2010 Statutory Budget:</b>   | <b>\$8,825,511</b> |

|  |                     |
|--|---------------------|
| Originally approved 2010 Budget (Statutory and Non-statutory): | \$ 9,225,131        |
| Supplemental Budget for TFEs:                                  | \$ 784,152          |
| <b>New Total Approved 2010 Budget:</b>                         | <b>\$10,009,283</b> |

|  |                    |
|--|--------------------|
| <b>New Total Approved 2010 Funding (including TFEs):</b> | <b>\$8,380,301</b> |
|--|--------------------|

**Key Factors Influencing Issue:**

- Requirement that Texas RE process and evaluate TFEs as a statutory activity
- Requirement that Texas RE be adequately funded for all statutory activities
- Requirement that Texas RE budget be approved by NERC on August 20<sup>th</sup> and filed with FERC on August 24<sup>th</sup>

**Alternatives:**

- Approve increasing the Texas RE 2010 budget in the amount of \$784,152 for the processing of TFEs in 2010
- Approve a modified increase in the Texas RE 2010 budget for the processing of TFEs

**Conclusion/Recommendation:**

Texas RE staff respectfully requests that the Board approve an increase to the 2010 Texas RE Business Plan and Budget in the amount of \$784,152, making an amended total Texas RE statutory budget of \$8,825,511.

RESOLUTION OF THE BOARD OF DIRECTORS OF  
TEXAS REGIONAL ENTITY, A DIVISION OF  
ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC.

August 17, 2009

WHEREAS, the Board of Directors (“Board”) of Texas Regional Entity, an independent division of Electric Reliability Council of Texas, Inc. (“Texas RE”), a Texas non-profit corporation, understands that Texas RE will be required to process and evaluate Technical Feasibility Exceptions (TFEs) as a statutory activity during the remainder of 2009 and beyond; and

WHEREAS, the Board deems it desirable and in the best interest of Texas RE to adequately fund Texas RE for the performance of the processing and evaluation of TFEs in 2010, in the amount of \$784,152, which is in addition to the \$9,225,131 total budget approved by the Board on June 15, 2009 for the 2010 Texas RE Business Plan and Budget;

THEREFORE be it RESOLVED, that the Board hereby approves increasing the approved Texas RE 2010 Business Plan and Budget by the additional amount of \$784,152 for its required processing of Technical Feasibility Exceptions; and

Be it FURTHER RESOLVED, that the Board hereby approves a revised 2010 Texas RE Business Plan and Budget, including the processing and evaluation of TFEs, in the total amount of \$10,009,283.

CORPORATE SECRETARY’S CERTIFICATE

I, Susan Vincent, Corporate Secretary of Texas Regional Entity, do hereby certify that, at the August 17, 2009 Texas Regional Entity Board of Directors Meeting, the Board of Directors of Texas Regional Entity approved the above referenced resolution. The motion passed by \_\_\_\_\_.

IN WITNESS WHEREOF, I have hereunto set my hand this            day of            , 2009.

\_\_\_\_\_  
Susan Vincent  
Corporate Secretary

# 2010 Texas Regional Entity Technical Feasibility Exception (TFE) Supplemental Budget

Board of Directors  
August 17, 2009

# Technical Feasibility Exception (TFE) Background

- Registered Entities subject to Critical Infrastructure Protection (CIP) Standards are allowed to request exceptions to designated standard requirements on the grounds of technical feasibility or technical limitations
  - Currently applies to 12 standard requirements
- NERC originally planned to budget for TFE evaluations on a national basis
- NERC eliminated this from the NERC budget after stakeholder and Regional Entity input and now requires Regional Entities to perform TFE evaluations
- Texas RE and all other Regional Entities will perform TFE evaluations for registered entities and must modify their 2010 budgets
- Business Plans and Budgets for NERC and all Regional Entities are scheduled to be approved by NERC on August 20<sup>th</sup> and submitted to FERC on August 24<sup>th</sup>
- Texas RE needs Board approval for a supplemental amount to fund the required TFE evaluations in 2010

# Workload for Processing TFEs

- Processing TFEs requires:
  - Prompt preliminary screening of the TFE and included mitigating measures for completeness and reasonableness
    - Registered entities will be permitted to re-submit initially rejected TFEs (within 30 days) with additional information
  - A thorough review of each initially accepted TFE (including proposed mitigating measures) by audit or spot check (currently within 360 days)
  - Tracking of TFEs and coordination with other Regional Entities for consistency and efficiency
- There is still great uncertainty regarding the workload requirements and issues are still evolving and being clarified, for example:
  - # of registered entities with TFEs (48 in ERCOT region have critical cyber assets)
  - # of TFEs (Texas RE estimates 240)
  - Time to process/evaluate each TFE (Texas RE estimates 56 hours per TFE)

# Texas RE TFE Supplemental Budget for 2010

- Texas RE has developed a supplemental budget to address TFEs
  - Supplemental budget (when approved) will be incorporated into the approved 2010 Texas RE Business Plan and Budget and submitted to NERC
    - NERC will submit to FERC on August 24<sup>th</sup>
  - Current Texas RE estimate for TFE evaluation and processing:
    - 4 additional FTEs
    - \$651,203 + \$132,949 cash reserves = **\$784,152**
- |   |                            |
|---|----------------------------|
| • <b>2010 Texas RE Statutory Budget (Approved in June):</b> | <b>\$ 8,041,359</b>        |
| • <b>Supplemental Budget for TFEs:</b>                      | <b>\$ 784,152</b>          |
| • <b>New Total 2010 Total Texas RE Statutory Budget:</b>    | <b>\$ <u>8,825,511</u></b> |
- Impacts statutory budget only (no impact on Protocol compliance program)
  - Texas RE requests approval of the \$784,152 supplemental budget for 2010

# Breakdown of Projected TFE Resource Needs

- **Salary & Benefits \$505K** – 4.0 FTEs needed for the added requirements (propose adding in 2009 as necessary)
  - 48 registered entities have currently declared they have critical cyber assets
  - Estimate 5 TFEs per registered entity (240 TFEs expected)
  - Approximately 56 hours per TFE for all phases (worked over 2 years)
  - ~13,440 hours over 2 years = 6,720 labor hours (1,680 labor hours for 1 FTE)
- **Travel \$20K**– estimate some travel for TFE evaluations and staff training
- **Contracts \$68K** – MOU expenses will increase for 4.0 FTEs added on staff
- **Professional Services \$24K** – recruitment of 4 staff will cost \$6K per position
- **Office Supplies \$4K** – estimate based on current staff consumption
- **Capital Expense \$29K** – additional cubicles and associated furniture
- **Cash Reserves \$133K** – estimated reserves to be consistent with Texas RE's base 2010 Business Plan & Budget
- **Total TFE resource needs – \$784K for 2010**



# 2010 Base Statutory Budget + TFE Supplement

| <b>Statement of Activities</b>                        |                       |                       |   |                     |   |                            |   |
|---|-----------------------|-----------------------|---|---------------------|---|----------------------------|---|
| <b>2009 Budget &amp; Projection, and 2010 Budget</b>  |                       |                       |   |                     |   |                            |   |
| <b>STATUTORY - Baseline Budget + TFE Supplemental</b> |                       |                       |   |                     |   |                            |   |
|   | 2009<br>Budget        | 2009<br>Projection    | Variance<br>2009 Projection<br>v 2009 Budget<br>Over(Under) | 2010<br>Budget      | Variance<br>2010 Budget<br>v 2009 Budget<br>Over(Under) | 2010<br>Budget<br>Plus TFE | Variance to<br>2010 Budget<br>Over(Under) |
| <b>Funding</b>  |                       |                       |   |                     |   |                            |   |
| <b>ERO Funding</b>                                    |                       |                       |   |                     |   |                            |   |
| ERO Assessments                                       | \$ 3,430,700          | \$ 3,430,700          | \$ -  | \$ 6,260,377        | \$ 2,829,676  | \$ 7,044,529               | \$ 784,152                                |
| Penalty Sanctions <sup>(1)</sup>                      | -                     | -                     | -   | -                   | -   | -                          | -   |
| <b>Total ERO Funding</b>                              | <b>\$ 3,430,700</b>   | <b>\$ 3,430,700</b>   | <b>\$ -</b>   | <b>\$ 6,260,377</b> | <b>\$ 2,829,676</b>                                     | <b>\$ 7,044,529</b>        | <b>\$ 784,152</b>                         |
| Membership Dues                                       | -                     | -                     | -   | -                   | -   | -                          | -   |
| Testing Fees  | -                     | -                     | -   | -                   | -   | -                          | -   |
| Services & Software                                   | -                     | -                     | -   | -                   | -   | -                          | -   |
| Workshops   | 70,000                | 174,029               | 104,029   | 180,000             | 110,000   | 180,000                    | -   |
| Interest  | -                     | 4,125                 | 4,125   | 2,000               | 2,000   | 2,000                      | -   |
| Miscellaneous   | -                     | -                     | -   | -                   | -   | -                          | -   |
| <b>Total Funding</b>                                  | <b>\$ 3,500,700</b>   | <b>\$ 3,608,854</b>   | <b>\$ 108,154</b>   | <b>\$ 6,442,377</b> | <b>\$ 2,941,676</b>                                     | <b>\$ 7,226,529</b>        | <b>\$ 784,152</b>                         |
| <b>Expenses</b>                                       |                       |                       |   |                     |   |                            |   |
| <b>Personnel Expenses</b>                             |                       |                       |   |                     |   |                            |   |
| Salaries  | \$ 2,496,968          | \$ 2,479,855          | \$ (17,114)   | \$ 3,113,791        | \$ 616,822  | \$ 3,493,791               | \$ 380,000                                |
| Payroll Taxes   | 199,757               | 191,667               | (8,090)   | 246,724             | 46,967  | 276,834                    | 30,110                                    |
| Benefits  | 259,628               | 194,403               | (65,225)  | 335,244             | 75,615  | 376,154                    | 40,910                                    |
| Retirement Costs                                      | 356,523               | 329,741               | (26,782)  | 446,050             | 89,526  | 500,489                    | 54,440                                    |
| <b>Total Personnel Expenses</b>                       | <b>\$ 3,312,878</b>   | <b>\$ 3,195,666</b>   | <b>\$ (117,211)</b>   | <b>\$ 4,141,808</b> | <b>\$ 828,931</b>                                       | <b>\$ 4,647,268</b>        | <b>\$ 505,460</b>                         |
| <b>Meeting Expenses</b>                               |                       |                       |   |                     |   |                            |   |
| Meetings  | \$ 105,000            | \$ 157,394            | \$ 52,394   | \$ 228,000          | \$ 123,000  | \$ 228,000                 | \$ -                                      |
| Travel  | 107,470               | 117,528               | 10,057  | 186,619             | 79,348  | 207,015                    | 20,197                                    |
| Conference Calls                                      | -                     | -                     | -   | -                   | -   | -                          | -   |
| <b>Total Meeting Expenses</b>                         | <b>\$ 212,470</b>     | <b>\$ 274,922</b>     | <b>\$ 62,452</b>  | <b>\$ 414,619</b>   | <b>\$ 202,348</b>                                       | <b>\$ 435,015</b>          | <b>\$ 20,197</b>                          |
| <b>Operating Expenses</b>                             |                       |                       |   |                     |   |                            |   |
| Consultants & Contracts                               | \$ 490,986            | \$ 539,074            | \$ 48,088   | \$ 630,334          | \$ 139,348  | \$ 698,478                 | \$ 68,144                                 |
| Office Rent   | 517,550               | 287,392               | (230,158)   | 327,600             | (189,950)   | 327,600                    | -   |
| Office Costs  | 18,290                | 26,581                | 8,301   | 40,720              | 22,440  | 45,122                     | 4,402                                     |
| Professional Services                                 | 426,000               | 563,134               | 137,134   | 622,625             | 196,625   | 646,625                    | 24,000                                    |
| Miscellaneous   | 11,160                | 13,943                | 2,783   | 36,236              | 25,076  | 36,236                     | -   |
| Depreciation  | 76,540                | 76,540                | -   | 150,000             | 73,460  | 154,143                    | 4,143                                     |
| <b>Total Operating Expenses</b>                       | <b>\$ 1,540,516</b>   | <b>\$ 1,506,664</b>   | <b>\$ (33,852)</b>  | <b>\$ 1,807,515</b> | <b>\$ 266,999</b>                                       | <b>\$ 1,908,204</b>        | <b>\$ 100,689</b>                         |
| <b>Total Direct Expenses</b>                          | <b>\$ 5,065,864</b>   | <b>\$ 4,977,252</b>   | <b>\$ (88,612)</b>  | <b>\$ 6,364,141</b> | <b>\$ 1,298,278</b>                                     | <b>\$ 6,990,487</b>        | <b>\$ 626,346</b>                         |
| <b>Indirect Expenses</b>                              | <b>\$ -</b>           | <b>\$ -</b>           | <b>\$ -</b>   | <b>\$ -</b>         | <b>\$ -</b>   | <b>\$ -</b>                | <b>\$ -</b>                               |
| <b>Other Non-Operating Expenses</b>                   | <b>\$ 855,000</b>     | <b>\$ -</b>           | <b>\$ (855,000)</b>   | <b>\$ -</b>         | <b>\$ (855,000)</b>                                     | <b>\$ -</b>                | <b>\$ -</b>                               |
| <b>Total Expenses</b>                                 | <b>\$ 5,920,864</b>   | <b>\$ 4,977,252</b>   | <b>\$ (943,612)</b>   | <b>\$ 6,364,141</b> | <b>\$ 443,278</b>                                       | <b>\$ 6,990,487</b>        | <b>\$ 626,346</b>                         |
| <b>Change in Assets</b>                               | <b>\$ (2,420,163)</b> | <b>\$ (1,368,397)</b> | <b>\$ 1,051,766</b>   | <b>\$ 78,235</b>    | <b>\$ 2,498,398</b>                                     | <b>\$ 236,041</b>          | <b>\$ 157,806</b>                         |
| <b>Fixed Assets</b>                                   |                       |                       |   |                     |   |                            |   |
| Depreciation  | \$ (76,540)           | \$ (76,540)           | \$ -  | \$ (150,000)        | \$ (73,460)   | \$ (154,143)               | \$ (4,143)                                |
| Computer & Software CapEx                             | 322,702               | 354,202               | 31,500  | 306,500             | (16,202)  | 306,500                    | -   |
| Furniture & Fixtures CapEx                            | -                     | -                     | -   | -                   | -   | 29,000                     | 29,000                                    |
| Equipment CapEx                                       | -                     | -                     | -   | -                   | -   | -                          | -   |
| Leasehold Improvements                                | -                     | -                     | -   | -                   | -   | -                          | -   |
| <b>Change in Fixed Assets</b>                         | <b>\$ (246,162)</b>   | <b>\$ (277,662)</b>   | <b>\$ (31,500)</b>  | <b>\$ (156,500)</b> | <b>\$ 89,662</b>  | <b>\$ (181,357)</b>        | <b>\$ (24,857)</b>                        |
| Allocation of Fixed Assets                            | -                     | -                     | -   | -                   | -   | -                          | -   |
| <b>Change in Fixed Assets</b>                         | <b>\$ (246,162)</b>   | <b>\$ (277,662)</b>   | <b>\$ (31,500)</b>  | <b>\$ (156,500)</b> | <b>\$ 89,662</b>  | <b>\$ (181,357)</b>        | <b>\$ (24,857)</b>                        |
| <b>TOTAL CHANGE IN ASSETS</b>                         | <b>\$ (2,666,325)</b> | <b>\$ (1,646,059)</b> | <b>\$ 1,020,266</b>   | <b>\$ (78,265)</b>  | <b>\$ 2,588,060</b>                                     | <b>\$ 54,684</b>           | <b>\$ 132,949</b>                         |

(1) Reflects penalty sanctions collected prior to June 30, 2009.

# 2010 Base Budget + TFE Supplemental Recap

|  | <u>Statutory</u>          | <u>Non-statutory</u>        | <u>Combined</u>           |
|--|---------------------------|-----------------------------|---------------------------|
| ● Operating Expense Budget               | \$6,364,141               | \$1,086,772                 | \$7,450,913               |
| ● Capital Budget                         | \$ 306,500                | \$ 67,000                   | \$ 373,500                |
| ● Cash Reserve                           | <u>\$1,370,718</u>        | <u>\$ 30,000</u>            | <u>\$1,400,718</u>        |
| ● Subtotal Budget Requirements           | \$8,041,359               | \$1,183,772                 | \$9,225,131               |
| ● Less: Unspent Funds (prior years)      | (\$ 593,982)              |                             | (\$ 593,982)              |
| ● Less: Cash Reserves on Hand            | (\$ 855,000)              |                             | (\$ 855,000)              |
| ● Less: Depreciation Expense             | <u>(\$ 150,000)</u>       | <u>(\$ 30,000)</u>          | <u>(\$ 180,000)</u>       |
| ● BASE BUDGET <i>Funding Requirement</i> | \$6,442,377               | \$1,153,772                 | \$7,596,149               |
| ● TFE Supplemental Budget                | <u>\$ 784,152</u>         | <u>                    </u> | <u>\$ 784,152</u>         |
| ● <b>New 2010 Budget (Base + TFE)</b>    | <b><u>\$7,226,529</u></b> | <b><u>\$1,153,772</u></b>   | <b><u>\$8,380,301</u></b> |
| ● Staffing (Full Time Equivalents)       | 31.00                     | 6.00                        | 37.00                     |
| ● TFE Supplemental Budget                | <u>4.00</u>               | <u>                    </u> | <u>4.00</u>               |
|  | 35.00                     | 6.00                        | 41.00                     |



# **2010 Business Plan and Budget**

## **Draft 1 Supplemental Budget to Address Technical Feasibility Exceptions**

**Texas Regional Entity**

**July 30, 2009**

## **Scope and Description**

### **Background**

The Critical Infrastructure Protection (CIP) Standards allow for registered entities to request Technical Feasibility Exceptions (TFEs) to the standard requirements in certain instances. Once these requests are made, they must be reviewed and approved, and then short and long-term plans to deal with the TFEs must also be evaluated, approved and monitored to completion.

At the time the Texas RE 2010 Business Plan and Budget were developed, submitted to the Board for review, and posted for stakeholder comment, NERC anticipated that the processing of TFEs would be handled centrally by NERC staff and thus significant Regional Entity resources would not be required for this work. Based upon feedback and input NERC received in response to the public posting of its proposed 2010 Business Plan and Budget, NERC revised this approach and directed the Regions to develop proposals to deal with TFE processing. Texas RE will require additional resources prior to and during 2010 to process the anticipated TFEs.

Texas RE decided to leave its base 2010 Business Plan and Budget as originally proposed and approved by the Texas RE Board of Directors and to develop this supplement devoted only to the TFE work. If approved by the NERC Board of Trustees, this supplement would be in addition to the 2010 Texas RE Business Plan and Budget previously submitted. Should the NERC Board of Trustees decide that Regional resources are not needed for TFE evaluations because NERC will centrally process them, this supplement will not be necessary and the NERC Board has the option to simply approve the base Business Plan and Budget.

There is great uncertainty regarding the workload requirements, longevity and evolving issues associated with TFEs. The ultimate answers to these questions will greatly impact resource requirements. Texas RE is attempting to answer these questions to the extent it can in this supplement, given the information presently available. The assumptions made were used to determine the budget impact of TFE evaluations across the Region.

### **Key Issues and Assumptions**

1. Texas RE will perform TFE evaluations for registered entities in the ERCOT Region, and will coordinate with the other Regions to ensure consistent treatment of similar requested TFEs.
2. Processing will require a preliminary screening of the TFE for completeness and reasonableness for acceptance on an interim basis. Screening is assumed to be completed within 60 days of receipt by the Regional Entity.
3. Texas RE will conduct a thorough review of the TFE and proposed mitigating measures, and will prepare its justification for approval or denial of the TFE within 360 days of the initial submittal of the TFE, unless otherwise extended by NERC.
4. The initial screening and thorough review of each TFE will be conducted off-site (not at the office of the Registered Entity and normally at the Texas RE offices) and Registered Entities will electronically submit all documentation required to review TFEs, including Critical Energy Infrastructure Information (CEII) associated with TFEs, to Texas RE. Registered entities will submit the information through either (1) encrypted email or (2) encrypted or password protected CDs, DVDs, or other mobile storage devices. Texas RE will ensure that confidential data and information received, including Critical Energy

Infrastructure Information (CEII), are secured, in accordance with Section 1500 of NERC Rules of Procedure. Texas RE will maintain all CEII on password protected or encrypted mobile storage devices which are maintained in locked fire-proof filing cabinets, in accordance with its Handling Guidelines for CEII Corporate Procedure, and Texas RE will only view registered entity CEII on designated secured (password protected) computers that are not network- connected to either the Internet or the Texas RE corporate local area network.

5. If a TFE is found to be deficient in the initial screening or during the thorough review, the registered entity will be provided 30 days to remedy the deficiency. If the registered entity fails to comply with the mitigation measures in its own TFE, the entity may be referred to Texas RE enforcement for processing of a possible violation. Registered entities will have a 'safe harbor' from enforcement while a TFE is pending acceptance by Texas RE and while the entity is performing in accordance with the TFE mitigation plan.
6. TFEs are associated with and permitted for only CIP-005 requirements 2.4, 2.6, 3.1, and 3.2; CIP-006 requirement 1.1; and CIP-007 requirements 2.3, 3.2, 4, 4.1, 5.3, 6, and 6.3.
7. If a registrant refuses to submit materials or documents due to CEII concerns and requests that Texas RE only review materials on-site, Texas RE will not approve the request, unless the registered entity is prohibited by law from disclosing information designated as Confidential Information, Classified National Security Information, NRC Safeguards Information and/or Protected FOIA Information to any person who is not an Eligible Reviewer (such as, for example, the restriction on access to Classified National Security Information specified in Section 4.1 of Executive Order No. 12958, as amended). In such an instance, the TFE Request shall identify the Confidential Information, Classified National Security Information, NRC Safeguards Information and/or Protected FOIA Information that is subject to such restrictions on disclosure and shall identify the criteria which a person must meet in order to be an Eligible Reviewer of the Confidential Information, Classified National Security Information, NRC Safeguards Information and/or Protected FOIA Information. The registered entity must submit all information that is not so designated.
8. Registered entities will be required to provide quarterly updates on the status of TFEs compared to mitigation plan milestones. Texas RE will be expected to review the completion of a TFE in a manner similar to a spot check.
9. TFEs will be grouped by common equipment/device types. Therefore, if there is one vulnerability that affects several types of devices, of which an entity has hundreds of such devices, Texas RE assumes that an entity will submit a single TFE.
10. NERC will provide review, input, and visibility (such as through a shared national database for use by the Regions) for consistency of the TFEs and will also develop common TFEs to provide better consistency and efficiency across Regions.

## **Incremental Staffing & Other Costs Summary**

Texas RE currently has 48 registered entities who declared critical cyber assets (this number may increase in light of recent NERC efforts). Each of these registered entities must be audited against the requirements of the CIP standards over the course of the next three years. Texas RE assumes that each of these entities may submit five (5) TFEs (on average) totaling 240 TFEs and that these will be screened and verified over the next two years (2010-2011), or 120 TFEs per year. Should the total number of TFEs significantly exceed this estimate, additional resources will be required.

Texas RE estimates that screening of each of these TFEs will require 16 hours of staff labor and the verification will require 34 hours of staff labor. Additionally, there will be approximately 6 hours of staff support required for development and maintenance of online forms, data management, and to monitor periodic reporting of TFE status. Therefore the total estimated impact is 56 hours per TFE. The total effort given these assumptions is 6,720 hours in 2010 (6,000 hours for engineering/technical/legal labor (3.6 FTEs) and 720 hours of support labor (0.4 FTEs), or a total of 4 FTEs). These staff additions would be such that these personnel could be reassigned in future years if the TFE workload diminished. All staffing commitments will be made only on the basis of actual TFE required workload. This estimate is simply for the purpose of budgeting and all staffing decisions would be made on actual need and not estimated needs. This estimate may need to be revised later based upon actual experience.

The estimates above do not include staff enforcement time required if violations are assessed during the TFE evaluation. Should a large number of violations be assessed as a result of TFE evaluations, this will have a significant impact on enforcement staff and additional resources will be required.

## **2010 Overview of Cost Impacts Including TFE Impact**

### **Funding Requirements — Explanation of Increase (Decrease)**

Funding for Technical Feasibility Exceptions will affect the Compliance programs (4 FTE increase). If this supplement is approved all expenses will be added to the program. The purpose of this supplement is to show the net effect to the total budget.

### **2010 Overview of TFE Cost Impacts**

The overall cost of implementing TFE processing by Texas RE in 2010 is projected to be \$651,203 excluding cash reserves (\$132,949). This would bring the total Texas RE statutory operating budgeted expenses in 2010 to \$7,171,844 excluding cash reserves, an increase of \$1,859,818 compared to the 2009 budget. This will result in the 2010 budget increasing by 35 percent over the 2009 budget. A statement of the budget impact of TFE processing is provided in the table on the following page. Additionally, a restated summary budget is provided on the subsequent page.

### **Funding Requirements — Explanation of Increase (Decrease)**

Texas RE proposes to file a supplemental budget with NERC and FERC for all costs associated with TFE evaluations. Should any over-collection occur, these funds will be used to offset subsequent years' expenses. If expenses exceed the budget estimated for TFE evaluations, this cost will be absorbed in the operating reserves which will be restored in a future year.

# Supplement 1 Technical Feasibility Exceptions

Funding sources and related expenses for Supplement 1 - Technical Feasibility Exceptions section of the 2010 business plan are shown in the table below.

**Table 1**

| Statement of Activities                               |                |                    |   |                    |   |
|---|----------------|--------------------|---|--------------------|---|
| 2009 Budget & Projection, and 2010 Budget             |                |                    |   |                    |   |
| Supplemental Budget - Technical Feasibility Exception |                |                    |   |                    |   |
|   | 2009<br>Budget | 2009<br>Projection | Variance<br>2009 Projection<br>v 2009 Budget<br>Over(Under) | 2010<br>Budget     | Variance<br>2010 Budget<br>v 2009 Budget<br>Over(Under) |
| <b>Funding</b>  |                |                    |   |                    |   |
| <b>ERO Funding</b>                                    |                |                    |   |                    |   |
| ERO Assessments                                       | \$ -           | \$ -               | \$ -  | \$ 784,152         | \$ -  |
| Penalty Sanctions <sup>(1)</sup>                      | -              | -                  | -   | -                  | -   |
| <b>Total ERO Funding</b>                              | <b>\$ -</b>    | <b>\$ -</b>        | <b>\$ -</b>   | <b>\$ 784,152</b>  | <b>\$ -</b>   |
| Membership Dues                                       | -              | -                  | -   | -                  | -   |
| Testing Fees  | -              | -                  | -   | -                  | -   |
| Services & Software                                   | -              | -                  | -   | -                  | -   |
| Workshops   | -              | -                  | -   | -                  | -   |
| Interest  | -              | -                  | -   | -                  | -   |
| Miscellaneous   | -              | -                  | -   | -                  | -   |
| <b>Total Funding</b>                                  | <b>\$ -</b>    | <b>\$ -</b>        | <b>\$ -</b>   | <b>\$ 784,152</b>  | <b>\$ -</b>   |
| <b>Expenses</b>                                       |                |                    |   |                    |   |
| <b>Personnel Expenses</b>                             |                |                    |   |                    |   |
| Salaries  | \$ -           | \$ -               | \$ -  | \$ 380,000         | \$ -  |
| Payroll Taxes   | -              | -                  | -   | 30,110             | -   |
| Benefits  | -              | -                  | -   | 40,910             | -   |
| Retirement Costs                                      | -              | -                  | -   | 54,440             | -   |
| <b>Total Personnel Expenses</b>                       | <b>\$ -</b>    | <b>\$ -</b>        | <b>\$ -</b>   | <b>\$ 505,460</b>  | <b>\$ -</b>   |
| <b>Meeting Expenses</b>                               |                |                    |   |                    |   |
| Meetings  | \$ -           | \$ -               | \$ -  | -                  | \$ -  |
| Travel  | -              | -                  | -   | 20,197             | -   |
| Conference Calls                                      | -              | -                  | -   | -                  | -   |
| <b>Total Meeting Expenses</b>                         | <b>\$ -</b>    | <b>\$ -</b>        | <b>\$ -</b>   | <b>\$ 20,197</b>   | <b>\$ -</b>   |
| <b>Operating Expenses</b>                             |                |                    |   |                    |   |
| Consultants & Contracts                               | \$ -           | \$ -               | \$ -  | \$ 68,144          | \$ -  |
| Office Rent   | -              | -                  | -   | -                  | -   |
| Office Costs  | -              | -                  | -   | 4,402              | -   |
| Professional Services                                 | -              | -                  | -   | 24,000             | -   |
| Miscellaneous   | -              | -                  | -   | -                  | -   |
| Depreciation  | -              | -                  | -   | 4,143              | -   |
| <b>Total Operating Expenses</b>                       | <b>\$ -</b>    | <b>\$ -</b>        | <b>\$ -</b>   | <b>\$ 100,689</b>  | <b>\$ -</b>   |
| <b>Total Direct Expenses</b>                          |                |                    |   |                    |   |
|   | <b>\$ -</b>    | <b>\$ -</b>        | <b>\$ -</b>   | <b>\$ 626,346</b>  | <b>\$ -</b>   |
| <b>Indirect Expenses</b>                              |                |                    |   |                    |   |
|   | <b>\$ -</b>    | <b>\$ -</b>        | <b>\$ -</b>   | <b>\$ -</b>        | <b>\$ -</b>   |
| <b>Other Non-Operating Expenses</b>                   |                |                    |   |                    |   |
|   | <b>\$ -</b>    | <b>\$ -</b>        | <b>\$ -</b>   | <b>\$ -</b>        | <b>\$ -</b>   |
| <b>Total Expenses</b>                                 | <b>\$ -</b>    | <b>\$ -</b>        | <b>\$ -</b>   | <b>\$ 626,346</b>  | <b>\$ -</b>   |
| <b>Change in Assets</b>                               | <b>\$ -</b>    | <b>\$ -</b>        | <b>\$ -</b>   | <b>\$ 157,806</b>  | <b>\$ -</b>   |
| <b>Fixed Assets</b>                                   |                |                    |   |                    |   |
| Depreciation  | \$ -           | \$ -               | \$ -  | \$ (4,143)         | \$ -  |
| Computer & Software CapEx                             | -              | -                  | -   | -                  | -   |
| Furniture & Fixtures CapEx                            | -              | -                  | -   | 29,000             | -   |
| Equipment CapEx                                       | -              | -                  | -   | -                  | -   |
| Leasehold Improvements                                | -              | -                  | -   | -                  | -   |
| <b>Change in Fixed Assets</b>                         | <b>\$ -</b>    | <b>\$ -</b>        | <b>\$ -</b>   | <b>\$ (24,857)</b> | <b>\$ -</b>   |
| Allocation of Fixed Assets                            | \$ -           | \$ -               | \$ -  | \$ -               | \$ -  |
| <b>Change in Fixed Assets</b>                         | <b>\$ -</b>    | <b>\$ -</b>        | <b>\$ -</b>   | <b>\$ (24,857)</b> | <b>\$ -</b>   |
| <b>TOTAL CHANGE IN ASSETS</b>                         | <b>\$ -</b>    | <b>\$ -</b>        | <b>\$ -</b>   | <b>\$ 132,949</b>  | <b>\$ -</b>   |

## **Explanations of Variances – 2010 Budget versus 2009 Budget**

*This activity is new for 2010 and therefore it was not incorporated into the 2009 or 2010 base budget.*

### **Funding Sources**

Texas RE considers TFE evaluations to be a part of the functions delegated to the Regions by the ERO. Therefore, funding for this statutory program in 2010 is provided through assessments to LSEs or designees (mandatory in the United States).

### **Personnel Expenses**

There will be an increase in the proposed 2010 FTE count of four (4.0) FTEs for TFE related work.

### **Hiring Plans**

Four additional FTEs will be needed in 2010, with plans to begin hiring process (solicitation of candidates) in late 2009.

### **Shared Employees**

These employees will be assigned 100% to this statutory activity.

### **Meeting Expenses**

Staffs travel expenses in support of the Texas RE TFE evaluations.

### **Operating Expenses**

These additional operating expenses are needed to support the added personnel.

### **Indirect Expenses**

No additional indirect expense will be needed above and beyond what has been requested in the original 2010 business plan & budget.

### **Other Non-Operating Expenses**

There are no other non-operating expenses

### **Fixed Asset Additions**

There are 4 cubicle units that would be required to support the additional personnel that would be capitalized.



# 2009 Budget and Projection and 2010 Budget Comparisons Including Technical Feasibility Exceptions

## Table 2

| Statement of Activities                        |                       |                       |   |                     |   |                            |   |
|--|-----------------------|-----------------------|---|---------------------|---|----------------------------|---|
| 2009 Budget & Projection, and 2010 Budget      |                       |                       |   |                     |   |                            |   |
| STATUTORY - Baseline Budget + TFE Supplemental |                       |                       |   |                     |   |                            |   |
|  | 2009<br>Budget        | 2009<br>Projection    | Variance<br>2009 Projection<br>v 2009 Budget<br>Over(Under) | 2010<br>Budget      | Variance<br>2010 Budget<br>v 2009 Budget<br>Over(Under) | 2010<br>Budget<br>Plus TFE | Variance to<br>2010 Budget<br>Over(Under) |
| <b>Funding</b>                                 |                       |                       |   |                     |   |                            |   |
| <b>ERO Funding</b>                             |                       |                       |   |                     |   |                            |   |
| ERO Assessments                                | \$ 3,430,700          | \$ 3,430,700          | \$ -  | \$ 6,260,377        | \$ 2,829,676  | \$ 7,044,529               | \$ 784,152                                |
| Penalty Sanctions <sup>(1)</sup>               | -                     | -                     | -   | -                   | -   | -                          | -   |
| <b>Total ERO Funding</b>                       | <b>\$ 3,430,700</b>   | <b>\$ 3,430,700</b>   | <b>\$ -</b>   | <b>\$ 6,260,377</b> | <b>\$ 2,829,676</b>                                     | <b>\$ 7,044,529</b>        | <b>\$ 784,152</b>                         |
| Membership Dues                                | -                     | -                     | -   | -                   | -   | -                          | -   |
| Testing Fees                                   | -                     | -                     | -   | -                   | -   | -                          | -   |
| Services & Software                            | -                     | -                     | -   | -                   | -   | -                          | -   |
| Workshops                                      | 70,000                | 174,029               | 104,029   | 180,000             | 110,000   | 180,000                    | -   |
| Interest                                       | -                     | 4,125                 | 4,125   | 2,000               | 2,000   | 2,000                      | -   |
| Miscellaneous                                  | -                     | -                     | -   | -                   | -   | -                          | -   |
| <b>Total Funding</b>                           | <b>\$ 3,500,700</b>   | <b>\$ 3,608,854</b>   | <b>\$ 108,154</b>   | <b>\$ 6,442,377</b> | <b>\$ 2,941,676</b>                                     | <b>\$ 7,226,529</b>        | <b>\$ 784,152</b>                         |
| <b>Expenses</b>                                |                       |                       |   |                     |   |                            |   |
| <b>Personnel Expenses</b>                      |                       |                       |   |                     |   |                            |   |
| Salaries                                       | \$ 2,496,968          | \$ 2,479,855          | \$ (17,114)   | \$ 3,113,791        | \$ 616,822  | \$ 3,493,791               | \$ 380,000                                |
| Payroll Taxes                                  | 199,757               | 191,667               | (8,090)   | 246,724             | 46,967  | 276,834                    | 30,110                                    |
| Benefits                                       | 259,628               | 194,403               | (65,225)  | 335,244             | 75,615  | 376,154                    | 40,910                                    |
| Retirement Costs                               | 356,523               | 329,741               | (26,782)  | 446,050             | 89,526  | 500,489                    | 54,440                                    |
| <b>Total Personnel Expenses</b>                | <b>\$ 3,312,878</b>   | <b>\$ 3,195,666</b>   | <b>\$ (117,211)</b>   | <b>\$ 4,141,808</b> | <b>\$ 828,931</b>                                       | <b>\$ 4,647,268</b>        | <b>\$ 505,460</b>                         |
| <b>Meeting Expenses</b>                        |                       |                       |   |                     |   |                            |   |
| Meetings                                       | \$ 105,000            | \$ 157,394            | \$ 52,394   | \$ 228,000          | \$ 123,000  | \$ 228,000                 | \$ -                                      |
| Travel   | 107,470               | 117,528               | 10,057  | 186,819             | 79,348  | 207,015                    | 20,197                                    |
| Conference Calls                               | -                     | -                     | -   | -                   | -   | -                          | -   |
| <b>Total Meeting Expenses</b>                  | <b>\$ 212,470</b>     | <b>\$ 274,922</b>     | <b>\$ 62,452</b>  | <b>\$ 414,819</b>   | <b>\$ 202,348</b>                                       | <b>\$ 435,015</b>          | <b>\$ 20,197</b>                          |
| <b>Operating Expenses</b>                      |                       |                       |   |                     |   |                            |   |
| Consultants & Contracts                        | \$ 490,986            | \$ 539,074            | \$ 48,088   | \$ 630,334          | \$ 139,348  | \$ 698,478                 | \$ 68,144                                 |
| Office Rent                                    | 517,550               | 287,392               | (230,158)   | 327,600             | (189,950)   | 327,600                    | -   |
| Office Costs                                   | 18,280                | 26,581                | 8,301   | 40,720              | 22,440  | 45,122                     | 4,402                                     |
| Professional Services                          | 426,000               | 563,134               | 137,134   | 622,625             | 196,625   | 646,625                    | 24,000                                    |
| Miscellaneous                                  | 11,160                | 13,943                | 2,783   | 36,236              | 25,076  | 36,236                     | -   |
| Depreciation                                   | 76,540                | 76,540                | -   | 150,000             | 73,460  | 154,143                    | 4,143                                     |
| <b>Total Operating Expenses</b>                | <b>\$ 1,540,516</b>   | <b>\$ 1,506,664</b>   | <b>\$ (33,852)</b>  | <b>\$ 1,807,515</b> | <b>\$ 266,999</b>                                       | <b>\$ 1,908,204</b>        | <b>\$ 100,689</b>                         |
| <b>Total Direct Expenses</b>                   | <b>\$ 5,065,864</b>   | <b>\$ 4,977,252</b>   | <b>\$ (88,612)</b>  | <b>\$ 6,364,141</b> | <b>\$ 1,298,278</b>                                     | <b>\$ 6,990,487</b>        | <b>\$ 626,346</b>                         |
| <b>Indirect Expenses</b>                       | <b>\$ -</b>           | <b>\$ -</b>           | <b>\$ -</b>   | <b>\$ -</b>         | <b>\$ -</b>   | <b>\$ -</b>                | <b>\$ -</b>                               |
| <b>Other Non-Operating Expenses</b>            | <b>\$ 855,000</b>     | <b>\$ -</b>           | <b>\$ (855,000)</b>   | <b>\$ -</b>         | <b>\$ (855,000)</b>                                     | <b>\$ -</b>                | <b>\$ -</b>                               |
| <b>Total Expenses</b>                          | <b>\$ 5,920,864</b>   | <b>\$ 4,977,252</b>   | <b>\$ (943,612)</b>   | <b>\$ 6,364,141</b> | <b>\$ 443,278</b>                                       | <b>\$ 6,990,487</b>        | <b>\$ 626,346</b>                         |
| <b>Change in Assets</b>                        | <b>\$ (2,420,163)</b> | <b>\$ (1,368,397)</b> | <b>\$ 1,051,766</b>   | <b>\$ 78,235</b>    | <b>\$ 2,498,398</b>                                     | <b>\$ 236,041</b>          | <b>\$ 157,806</b>                         |
| <b>Fixed Assets</b>                            |                       |                       |   |                     |   |                            |   |
| Depreciation                                   | \$ (76,540)           | \$ (76,540)           | \$ -  | \$ (150,000)        | \$ (73,460)   | \$ (154,143)               | \$ (4,143)                                |
| Computer & Software CapEx                      | 322,702               | 354,202               | 31,500  | 306,500             | (16,202)  | 306,500                    | -   |
| Furniture & Fixtures CapEx                     | -                     | -                     | -   | -                   | -   | 29,000                     | 29,000                                    |
| Equipment CapEx                                | -                     | -                     | -   | -                   | -   | -                          | -   |
| Leasehold Improvements                         | -                     | -                     | -   | -                   | -   | -                          | -   |
| <b>Change in Fixed Assets</b>                  | <b>\$ (246,162)</b>   | <b>\$ (277,662)</b>   | <b>\$ (31,500)</b>  | <b>\$ (156,500)</b> | <b>\$ 89,662</b>  | <b>\$ (181,357)</b>        | <b>\$ (24,857)</b>                        |
| Allocation of Fixed Assets                     | -                     | -                     | -   | -                   | -   | -                          | -   |
| <b>Change in Fixed Assets</b>                  | <b>\$ (246,162)</b>   | <b>\$ (277,662)</b>   | <b>\$ (31,500)</b>  | <b>\$ (156,500)</b> | <b>\$ 89,662</b>  | <b>\$ (181,357)</b>        | <b>\$ (24,857)</b>                        |
| <b>TOTAL CHANGE IN ASSETS</b>                  | <b>\$ (2,666,325)</b> | <b>\$ (1,646,059)</b> | <b>\$ 1,020,266</b>   | <b>\$ (78,265)</b>  | <b>\$ 2,588,060</b>                                     | <b>\$ 54,684</b>           | <b>\$ 132,949</b>                         |

(1) Reflects penalty sanctions collected prior to June 30, 2009.

# Reserve Balance Including Technical Feasibility Exceptions

## Table 3

| Working Capital Reserve Analysis 2009-2010  |                  |
|---|------------------|
| STATUTORY   |                  |
| <b>Beginning Working Capital Reserve (Deficit), December 31, 2008</b>               | 2,666,325        |
| Penalty sanctions being held to be used as offset to 2010 assessments <sup>1</sup>  | 0                |
| Plus: 2009 ERO Funding (from LSEs or designees)                                     | 3,430,700        |
| Plus: 2009 Other funding sources  | 178,154          |
| Less: 2009 Regulatory Liability Projected   | (165,266)        |
| Less: 2009 Projected expenses & capital expenditures                                | (5,254,914)      |
| <b>Projected Working Capital Reserve (Deficit), December 31, 2009</b>               | <b>855,000</b>   |
| <b>Desired Working Capital Reserve, December 31, 2010</b> <sup>2</sup>              | 1,503,667        |
| Less: Projected Working Capital Reserve, December 31, 2009                          | (855,000)        |
| <b>Increase(decrease) in assessments to achieve desired Working Capital Reserve</b> | <b>648,667</b>   |
| 2010 Assessment for Expenses and Capital Expenditures                               | 7,171,844        |
| Less: Penalty Sanctions <sup>1</sup>  | 0                |
| Less: Other Funding Sources   | (182,000)        |
| Less: LT Regulatory Liability Release   | (593,983)        |
| Adjustment to achieve desired Working Capital Reserve                               | 648,667          |
| <b>2010 Assessment</b>  | <b>7,044,529</b> |

<sup>1</sup> Represents collections prior to June 30, 2009.

<sup>2</sup> Represents an approximately 75-day cash reserve approved by the Texas RE Board of Directors on June 15, 2009.