

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Reliability Standard Compliance and Enforcement in
Regions with Independent System Operators and
Regional Transmission Organizations

Docket No. AD07-12-000

SECOND NOTICE OF TECHNICAL CONFERENCE

(August 2, 2007)

As announced on June 15, 2007, the staff of the Federal Energy Regulatory Commission will hold a technical conference in the above-referenced proceeding on September 18, 2007, at the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. It will be held in the Commission Meeting Room (Room 2C) from 9:30 a.m. until 1:00 p.m. (EDT).

All interested parties are invited.

The conference will explore issues associated with the cost recovery of penalties for Reliability Standard violations assessed against independent system operators (ISOs) and regional transmission organizations (RTOs) in the United States, as set forth in *Midwest Independent Transmission System Operator, Inc.*, 119 FERC ¶ 61,222 (May 31, 2007) in Docket Nos. ER07-701-000 and AD07-12-000. In that Order, the following topics were identified for discussion:

1. How each ISO's or RTO's regional tariffs and other operational agreements and protocols allocate reliability responsibilities among the parties;
2. What provisions exist in those tariffs, agreements, and protocols to establish responsibility for penalty costs associated with Reliability Standard violations, and do those provisions result in uniform responsibility for such penalty costs;
3. What provisions exist that may prevent an entity from being registered for compliance with relevant Reliability Standards if, notwithstanding its registration status, such entity's failure to perform under tariffs, agreements, and protocols could lead to a violation of Reliability Standards; and
4. What policies for any pass-through of penalty costs associated with Reliability Standard violations by ISOs and RTOs would both best provide due process for entities that may ultimately be required to pay these penalty costs and also avoid redundant investigations and litigation of Reliability Standard violations.

There will be three panels. The first panel will consist of RTOs and ISOs. The second panel will consist of representative entities potentially subject to paying penalties incurred by the RTOs or ISOs, either through the general allocation of an RTO or ISO penalty or through the direct assignment of a penalty by an RTO or ISO on the grounds such entity did not perform reliability functions that led to the penalty. The third panel will consist of the North American Electric Reliability Corporation and the Regional Entities.

Topics for discussion in each panel are as follows:

Panel One:

Panelists should be prepared to address Commission Topics 1, 2, 3 and 4. In addition, panelists are requested to consider the following:

- A. Should penalties associated with Reliability Standard violations by RTOs or ISOs be allocated to all of its members, customers, owners or participants (collectively, members)? If so, should this allocation be handled by tariff or by contract? What allocation method would fairly apportion the cost burden amongst an RTO's or ISO's members?
- B. If an RTO or ISO is permitted to pass on to its members the reliability penalties assessed against it, how should the Commission ensure that the RTO/ISO has adequate incentives to comply with the Reliability Standards?
- C. Should an RTO or ISO be permitted to directly assign to one or more or a group of specific members, reliability penalties assessed against it but that were caused by the members? If so, who should investigate these entities to determine the degree of culpability, how will these entities be given due process and how can duplicative proceedings that overlap the ERO or Regional Entity penalty proceedings be avoided?
- D. Should only non-monetary penalties be applied to RTOs and ISOs (and other non-profit organizations)?

Panel Two:

Panelists should be prepared to address Commission Topics 1, 2, 3 and 4. In addition, panelists are requested to consider the following:

- A. Should an RTO or ISO be permitted to allocate to its members reliability penalties assessed against it pursuant to section 215 of the FPA? If so, should this be handled by tariff or by contract? What allocation method would fairly

apportion the cost burden?

- B. If an RTO or ISO is not permitted to pass on reliability penalty costs assessed against it, what source of funds is suggested for payment?
- C. Should an RTO or ISO be permitted to directly assign to specific members reliability penalties assessed against it, and if so, how should duplicative proceedings be avoided and due process ensured?

Panel Three:

Panelists should be prepared to address Commission Topics 3 and 4. In addition, panelists are requested to consider the following:

- A. Would the ERO or Regional Entity investigation of an alleged Reliability Standard violation by an RTO or ISO incorporate an investigation of any RTO or ISO members that have been alleged to contribute to the violation both in the instance where these members are registered in the ERO's compliance registry and in the instance where these members are not registered? If these members are investigated, would there be an assessment of the extent each of the members and the RTO or ISO contributed to the violation?
- B. How would Regional Entities and the ERO address in enforcement proceedings assessment of penalties for matters in which an RTO or ISO and one or more members violated the same Reliability Standard, different Reliability Standards or multiple Reliability standards?
- C. Should the Regional Entity identify not just the entity that violated a Reliability Standard, but also any entities which may have contributed to the RTO's or ISO's Reliability Standard violation? Should the Regional Entity also quantify the degree to which each entity contributed to the violation?
- D. If an RTO or ISO asserts that an entity that is not listed in NERC's compliance registry is responsible for the RTO's or ISO's violation of a Reliability Standard, in an enforcement hearing pursuant to section 215 of the FPA, will Regional Entities or NERC inquire if the root cause of the violation lies with that entity and provide the entity an opportunity to participate in the proceeding?

Participants on the panels will be announced in a subsequent notice. There is **no** registration fee to attend. A free webcast of this event will be available through www.ferc.gov. Anyone with Internet access who desires to view this event can do so by navigating to www.ferc.gov's Calendar of Events and locating this event in the Calendar. The event will contain a link to its webcast. The Capitol Connection provides technical

support for the webcasts and offers access to the meeting via a phone bridge for a fee. If you have any questions, visit www.CapitolConnection.org or contact Danelle Perkowski or David Reininger at 703-993-3100.

Transcripts of the meeting will be available immediately for a fee from Ace Reporting Company (202-347-3700 or 1-800-336-6646). They will be available for free on the Commission's eLibrary system and on the events calendar approximately one week after the meeting.

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Questions about the conference should be directed to Don LeKang by e-mail at donald.lekang@ferc.gov or by phone at 202-502-8127.

Kimberly D. Bose
Secretary