

### **Panel 3: Enforcement and Penalties**

In the U.S., the ERO will have the lead role in determining enforcement and penalties, with FERC oversight. FERC will be involved with all ERO penalties, which will not go into effect until 30 days after FERC has reviewed and approved them. Although penalties will be determined by the ERO, there is potential for delegation of enforcement authority to the Regional Entities.

The fact that no single entity in Canada oversees the review of enforcement and penalties, and that in some jurisdictions there may be more than one entity involved in reliability oversight, suggests that the application of enforcement and penalties in Canada will be somewhat different. In order to ensure that issues will be resolved in a manner that ensures reliability management in Canada and the U.S. are fully coordinated, certain questions will need to be raised and resolved.

#### ***Enforcement by the ERO***

- **Enforcement Authority:** The ERO must consider how it will establish truly independent mechanisms for enforcement and penalties.
  - Are criteria required for Regulators in the U.S. and Canada to undertake enforcement actions on their own initiative without waiting for the ERO to act?
  - Will the ERO or the Regional Entities be responsible for issuing compliance reports to Regulators?
- **Regulatory Role:** Consideration should be given to how the application of a standard is to be made consistent with Canadian and provincial laws.
  - How should regulators oversee the enforcement and penalty actions of the ERO?
  - Will authorities in Canada authorize the ERO to assess penalties for violations of reliability standards?
- **Regulatory Comparability:** Mechanisms may be required to resolve any differences between regulators with respect to enforcement of standards.
  - Is regulatory comparability necessary between regulatory authorities in Canada and FERC with respect to delegating enforcement and penalty authority to the ERO?

#### ***Enforcement by Regional Entities***

- **General:**
  - Would the answers to the questions above be the same for a Regional Entity as for the ERO?

- **Compliance Monitoring:**
  - What should be the relative roles of a Regional Entity and the ERO in reliability compliance monitoring? The panel should consider whether the role of the Regional Entity is to monitor, provide notice, hold hearings and hear appeals.
  
- **Appeal Mechanism:**
  - If a Regional Entity enforces a reliability standard, who will serve as the first appellate body for purposes of any appeal? The ERO? The regulator?
  
- **Consistency of Penalties and Enforcement Across Regions:** The panel may wish to consider the feasibility of a common process by which each regulatory authority establishes penalties.
  - Is it important to establish penalties that are more than simply a cost of doing business?
  - Should a process be considered to ensure that the ERO and Regional Entities establish comparable penalties for the same violation, and the equivalent application of penalties?
  
- **Enforcement Authority:**
  - What should be the roles of the Regional Entities, the ERO, and the regulators for a violation crossing multiple Regional Entities?