

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Part 358

(Docket No. RM01-10-005)

Standards of Conduct for Transmission Providers

(Issued May 18, 2006)

AGENCY: Federal Energy Regulatory Commission

ACTION: Order on Request for Additional Clarification

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing this Order to clarify that, in the event of a grid disturbance, a Transmission Provider may communicate to an affiliated nuclear power plant specific information about transmission system conditions on a real-time basis.

EFFECTIVE DATE: The Order on Request for Additional Clarification will become effective **[insert date of publication in the FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT:

Mary Kipp
Office of Enforcement
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426
(202) 502-8228
mary.kipp@ferc.gov

SUPPLEMENTARY INFORMATION:

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

Standards of Conduct for Transmission Providers

Docket No. RM01-10-005

ORDER ON REQUEST FOR ADDITIONAL CLARIFICATION

(Issued May 18, 2006)

1. In this order, the Commission addresses the request seeking clarification of the Commission's February 16, 2006 "Interpretive Order Relating to the Standards of Conduct" (Interpretive Order).¹ The Interpretive Order clarified that, subject to the no-conduit rule, Transmission Providers may communicate with affiliated nuclear power plants regarding certain matters related to the safety and reliability of the transmission system, in order to comply with requirements of the Nuclear Regulatory Commission (NRC). For the reasons discussed herein, we grant the request for additional clarification.
2. On March 20, 2006, Exelon Corporation ("Exelon") filed comments and a request for clarification of the Interpretive Order. Specifically, Exelon requests that the Commission clarify that a Transmission Provider can provide its affiliated nuclear power plants ("NPPs") with specific information concerning the location and nature of grid disturbances that potentially threaten the grid's ability to provide power to a plant's safety systems. On March 21, 2006, the Nuclear Energy Institute ("NEI") filed

¹ Interpretive Order Relating to the Standards of Conduct, 71 FR 9446 (Feb. 24, 2006), FERC Stats. & Regs. ¶ 31,206 (2006).

comments in support of Exelon's position. In this order, the Commission clarifies that, in the event of a grid disturbance, a Transmission Provider may communicate to an affiliated NPP specific information about transmission system conditions on a real-time basis, including: (i) a technical description of the grid disturbance, along with its specific location on the system; (ii) the grid elements, whether lines, substations, or other elements, that may be affected by the disturbance, and their specific locations on the system; (iii) the projected duration of the disturbance; and (iv) steps being taken by the Transmission Provider to resolve the disturbance. This order benefits customers because it clarifies that Transmission Providers and NPPs may share information necessary to maintain the safety and reliability of the transmission grid while ensuring that there is no undue preference or services.

I. Background

3. On November 25, 2003, the Commission issued a Final Rule adopting Standards of Conduct for Transmission Providers (Order No. 2004).² Under Order No. 2004, the Standards of Conduct govern the relationships between Transmission Providers and all of their Marketing Affiliates and Energy Affiliates. The Standards of Conduct also contain various information-sharing prohibitions to help ensure that Transmission Providers do

² Standards of Conduct for Transmission Providers, Order No. 2004, FERC Stats. & Regs., Regulations Preambles ¶ 31,155 (2003), order on reh'g, Order No. 2004-A, III FERC Stats. & Regs. ¶ 31,161 (2004), 107 FERC ¶ 61,032 (2004), order on reh'g, Order No. 2004-B, III FERC Stats. & Regs. ¶ 31,166 (2004), 108 FERC ¶ 61,118 (2004), order on reh'g, Order No. 2004-C, 109 FERC ¶ 61,325 (2004), order on reh'g, Order No. 2004-D, 110 FERC ¶ 61,320 (2005), appeal docketed sub nom., National Gas Fuel Supply Corporation v. FERC, No. 04-1183 (D.C. Cir. June 9, 2004).

not use their access to information about transmission to unfairly benefit their own or their affiliates' sales to the detriment of competitive markets. Absent one of the exceptions articulated in section 358.5 of the Commission's regulations, if a Transmission Provider discloses transmission information to its Marketing or Energy Affiliate, the Transmission Provider is required to immediately post that information on its OASIS or Internet website.

4. On February 16, 2006, the Commission issued the Interpretive Order. The Interpretive Order clarified that sections 358.5(a) and (b) of the Commission's regulations, 18 C.F.R. § 358.5(a) and (b) (2005), do not prohibit a Transmission Provider and its affiliated NPP from engaging in necessary communications related to the safety and reliability of the transmission system or the NPP, including information relating to the loss of or potential loss of transmission lines that provide off-site power to the NPP.³ The Commission issued the Interpretive Order to clarify that Transmission Providers may communicate with affiliated and non-affiliated NPPs to enable the NPPs to comply with the requirements of the NRC as described in the NRC's February 1, 2006 Generic Letter 2006-002, Grid Reliability and the Impact on Plant Risk and the Operability of Offsite Power (the "Generic Letter").⁴ The Commission also reemphasized that, although such communications are permitted, the NPP operator is prohibited from being a conduit for

³ Interpretive Order at P 1.

⁴ *Id.* referencing Nuclear Regulatory Commission's Generic Letter 2006-002, Grid Reliability and the Impact on Plant Risk and the Operability of Offsite Power. February 1, 2006. OMB Control No.: 3150-0011.

sharing this information with employees of other Marketing or Energy Affiliates.

18 C.F.R. § 358.5(b)(7) (2005).⁵

5. Although no public notice or comment on the Interpretive Order was required pursuant to section 4(b)(A) of the Administrative Procedure Act, 5 U.S.C. § 533(b)(A) (2000), which exempts from such notice or comment “interpretive rules, general statements of policy or rules of agency organization, procedure or practice,” the Commission invited all interested persons to submit written comments.⁶ Comments were due March 20, 2006. Reply comments were due on April 19, 2006. The Generic Letter and the Interpretive Order were also discussed at the first ever joint meeting of the Commission and the NRC held on April 24, 2006.

6. Exelon filed timely comments in which it expresses agreement with the Commission that the clarifications set forth in the Interpretive Order will enhance safe operations at nuclear facilities. Exelon also requests that the Commission make additional clarifications. NEI filed comments in support of Exelon’s position. No other comments or reply comments were filed.

7. Exelon argues that, while the Interpretive Order expressly held that Transmission Providers may communicate information on grid disturbances and the duration of power unavailability, the Interpretive Order only implicitly approved disclosure of the location and nature of the disturbance. Exelon asserts that such information clearly encompasses

⁵ Interpretive Order at P 6.

⁶ Id. at P 10.

the “necessary communications related to safety or reliability that the Standards of Conduct are not intended to impede.” Thus, Exelon asks that the Commission further clarify that, subject to the no-conduit rule, a Transmission Provider may provide its affiliated NPPs with specific information concerning the location and nature of grid disturbances that potentially threaten the grid’s ability to provide power to a plant’s safety systems.

8. Exelon asserts that grid conditions may not only interfere with NPP access to offsite power, but may also require the Transmission Provider to ask the NPP to take some action, such as reducing output or operating switchyard equipment. In addition, Exelon points out that grid conditions may involve actual system emergencies or transmission element outages that create contingencies. Finally, Exelon states that grid conditions that may impact an NPP may occur on transmission system elements directly connected to the NPP, on more remote elements on the Transmission Provider’s system, or even on elements in the system of another Transmission Provider. Exelon argues that under any and all such conditions, the NPP needs to know whether an affiliated Transmission Provider may disclose to an NPP specific information about transmission system conditions on a real-time basis, including: (i) a technical description of the grid disturbance, along with its specific location on the system; (ii) the grid elements, whether lines, substations, or other elements, that may be affected by the disturbance, and their specific locations on the system; (iii) the projected duration of the disturbance; and (iv) steps being taken by the Transmission Provider to resolve the disturbance.

II. Commission Decision

9. In the Interpretive Order the Commission recognized that, in addition to permitting communications necessary to operate and maintain the transmission system, the Transmission Provider and its interconnected NPP must engage in certain limited communications to operate and maintain the interconnection and the safety and reliability of the NPP.⁷ Consequently, the Commission clarified that permitted communications may include, inter alia, information on grid disturbances and the duration of power unavailability in order for the NPP to plan for off-site power in the event of a grid-related loss of power or station blackout, as required by the NRC.⁸

10. The Commission did not intend to restrict to generalized information the types of communications that comprise “information on grid disturbances and the duration of power unavailability” as used in the Interpretive Order. Rather, the Commission intends that, subject to the no conduit rule, Transmission Providers and their affiliated NPPs may communicate as necessary to preserve the safety and reliability of the grid, the interconnection, and the NPP. The Commission agrees with Exelon that it may be necessary for the Transmission Provider and the NPP to discuss specific technical information.

11. Accordingly, the Commission specifically clarifies that “information on grid disturbances and the duration of power unavailability” as used in the Interpretive Order

⁷ Id. at P 7.

⁸ Id.

encompasses specific information about transmission system conditions on a real-time basis, including: (i) a technical description of the grid disturbance, along with its specific location on the system; (ii) the grid elements, whether lines, substations, or other elements, that may be affected by the disturbance, and their specific locations on the system; (iii) the projected duration of the disturbance; and (iv) steps being taken by the Transmission Provider to resolve the disturbance.

III. Document Availability

12. In addition to publishing the full text of this document in the Federal Register, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (<http://www.ferc.gov>) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, N.E., Room 2A, Washington, D.C. 20426.

13. From the Commission's Home Page on the Internet, this information is available in the Commission's document management system, eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

14. User assistance is available for eLibrary and the Commission's website during normal business hours. For assistance, please contact FERC Online Support at 1-866-208-3676 (toll free) or (202) 502-8222 (e-mail at

FERCOnlineSupport@FERC.gov), or the Public Reference Room at (202) 502-8371,
TTY (202) 502-8659 (e-mail at public.referenceroom@ferc.gov).

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.