

Federal Energy Regulatory Commission

§ 39.13

(b) The Commission, upon its own motion or upon complaint, may propose a change to an Electric Reliability Organization Rule or Regional Entity Rule.

(c) A proposed Electric Reliability Organization Rule or Rule change or Regional Entity Rule or Rule change shall take effect upon a finding by the Commission, after notice and opportunity for public comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of § 39.3.

§ 39.11 Reliability reports.

(a) The Electric Reliability Organization shall conduct assessments as determined by the Commission of the reliability of the Bulk-Power System in North America and provide a report to the Commission and provide subsequent reports of the same to the Commission.

(b) The Electric Reliability Organization shall conduct assessments of the adequacy of the Bulk-Power System in North America and report its findings to the Commission, the Secretary of Energy, each Regional Entity, and each Regional Advisory Body annually or more frequently if so ordered by the Commission.

§ 39.12 Review of state action.

(a) Nothing in this section shall be construed to preempt any authority of any state to take action to ensure the safety, adequacy, and reliability of electric service within that state, as long as such action is not inconsistent with any Reliability Standard, except that the State of New York may establish rules that result in greater reliability within that state, as long as such action does not result in lesser reliability outside the state than that provided by the Reliability Standards.

(b) Where a state takes action to ensure the safety, adequacy, or reliability of electric service, the Electric Reliability Organization, a Regional Entity or other affected person may apply to the Commission for a determination of consistency of the state action with a Reliability Standard.

(1) The application shall:

(i) Identify the state action;

(ii) Identify the Reliability Standard with which the state action is alleged to be inconsistent;

(iii) State the basis for the allegation that the state action is inconsistent with the Reliability Standard; and

(iv) Be served on the relevant state agency and the Electric Reliability Organization, concurrent with its filing with the Commission.

(2) Within ninety (90) days of the application of the Electric Reliability Organization, the Regional Entity, or other affected person, and after notice and opportunity for public comment, the Commission will issue a final order determining whether the state action is inconsistent with a Reliability Standard, taking into consideration any recommendation of the Electric Reliability Organization and the state.

(c) The Commission, after consultation with the Electric Reliability Organization and the state taking action, may stay the effectiveness of the state action, pending the Commission's issuance of a final order.

§ 39.13 Regional Advisory Bodies.

(a) The Commission will establish a Regional Advisory Body on the petition of at least two-thirds of the states within a region that have more than one-half of their electric load served within the region.

(b) A petition to establish a Regional Advisory Body shall include a statement that the Regional Advisory Body is composed of one member from each participating state in the region, appointed by the governor of each state, and may include representatives of agencies, states and provinces outside the United States.

(c) A Regional Advisory Body established by the Commission may provide advice to the Electric Reliability Organization or a Regional Entity or the Commission regarding:

(1) The governance of an existing or proposed Regional Entity within the same region;

(2) Whether a Reliability Standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest;

(3) Whether fees for all activities under this part proposed to be assessed

within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest; and

(4) Any other responsibilities requested by the Commission.

(d) The Commission may give deference to the advice of a Regional Advisory Body established by the Commission that is organized on an Interconnection-wide basis.

PART 41—ACCOUNTS, RECORDS, MEMORANDA AND DISPOSITION OF CONTESTED AUDIT FINDINGS AND PROPOSED REMEDIES

DISPOSITION OF CONTESTED AUDIT FINDINGS AND PROPOSED REMEDIES

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AUTHORITY: 16 U.S.C. 791a–825r, 2601–2645; 42 U.S.C. 7101–7352.

SOURCE: Order 141, 12 FR 8500, Dec. 19, 1947, unless otherwise noted.

CROSS REFERENCE: For rules of practice and procedure, see part 385 of this chapter.

DISPOSITION OF CONTESTED AUDIT FINDINGS AND PROPOSED REMEDIES

§ 41.1 Notice to audited person.

(a) *Applicability.* This part applies to all audits conducted by the Commission or its staff under authority of the Federal Power Act except for Electric Reliability Organization audits conducted pursuant to the authority of part 39 of the Commission's regulations.

(b) *Notice.* An audit conducted by the Commission's staff under authority of the Federal Power Act may result in a notice of deficiency or audit report or similar document containing a finding or findings that the audited person has not complied with a requirement of the

Commission with respect to, but not limited to, the following: A filed tariff or tariffs, contracts, data, records, accounts, books, communications or papers relevant to the audit of the audited person; matters under the Standards of Conduct or the Code of Conduct; and the activities or operations of the audited person. The notice of deficiency, audit report or similar document may also contain one or more proposed remedies that address findings of noncompliance. Where such findings, with or without proposed remedies, appear in a notice of deficiency, audit report or similar document, such document shall be provided to the audited person, and the finding or findings, and any proposed remedies, shall be noted and explained. The audited person shall timely indicate in a written response any and all findings or proposed remedies, or both, in any combination, with which the audited person disagrees. The audited person shall have 15 days from the date it is sent the notice of deficiency, audit report or similar document to provide a written response to the audit staff indicating any and all findings or proposed remedies, or both, in any combination, with which the audited person disagrees, and such further time as the audit staff may provide in writing to the audited person at the time the document is sent to the audited person. The audited person may move the Commission for additional time to provide a written response to the audit staff and such motion shall be granted for good cause shown. Any initial order that the Commission subsequently may issue with respect to the notice of deficiency, audit report or similar document shall note, but not address on the merits, the finding or findings, or the proposed remedy or remedies, or both, in any combination, with which the audited person disagreed. The Commission shall provide the audited person 30 days to respond to the initial Commission order concerning a notice of deficiency, audit report or similar document with respect to the finding or findings or any proposed remedy or remedies, or both, in any combination, with which it disagreed.

[Order 675–A, 71 FR 29784, May 24, 2006]