



# FEDERAL ENERGY REGULATORY COMMISSION

NEWS

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News Media Contact

Barbara A. Connors - 202.502.8680

## **FERC Considers Nuclear Reliability Standard, Recovery of Reliability Penalty Costs**

The Federal Energy Regulatory Commission (FERC) proposed today to approve a reliability standard filed by the Commission-certified Electric Reliability Organization (ERO) that coordinates certain activities between nuclear power plants and transmission entities.

The Nuclear Plant Interface Coordination Reliability Standard would require a nuclear power plant operator and its suppliers of offsite power and related transmission and distribution services to coordinate concerning requirements for safe and reliable nuclear plant operation and system operating limits.

In a separate order, FERC provided guidance on the recovery of reliability penalty costs by Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs).

“We continue to move forward in establishing a strong reliability framework for the nation’s bulk power system,” FERC Chairman Joseph T. Kelliher said. “Today’s actions not only help to provide for reliable and safe coordination between nuclear power plants and transmission entities, but also encourage a culture of compliance at large grid operators.”

In July 2006, FERC designated the North American Electric Reliability Corp. (NERC) as the ERO under section 215 of the Federal Power Act (FPA), a new provision added by the Energy Policy Act of 2005 to establish a system of mandatory, enforceable reliability standards under the Commission's oversight.

Comments on the Notice of Proposed Rulemaking (NOPR), *Mandatory Reliability Standard for Nuclear Plant Interface Coordination*, are due 30 days after the NOPR’s publication in the *Federal Register*.

In the guidance order, FERC noted that under section 215 of the FPA, penalties may be assessed against RTOs and ISOs for noncompliance with mandatory and enforceable reliability standards. Yet FERC recognized that RTOs and ISOs generally operate as nonprofit entities funded by their customers and may have insufficient reserves to pay penalties.

FERC noted that RTOs and ISOs granted blanket authority to automatically pass through monetary penalties to customers “will not have the appropriate incentives to proactively comply with reliability standards.” As an alternative, FERC directed that proposals to recover penalties be filed on a case-by-case basis. In evaluating such proposals, FERC will consider, among other things, the nature of the Reliability Standard violation and the factors that contributed to the violation, including the integrity of the RTO or ISO compliance program to prevent such violations.

FERC addressed two possible methods for RTOs or ISOs to seek recovery of the costs of a penalty for violation of a Reliability Standard, one being the direct assignment of such costs to an entity that the RTO or ISO believes to be responsible for its incurrence of the violation, and the other being a recovery of such costs from all members and/or customers of the RTO or ISO. FERC said it will not allow the direct assignment of



penalty costs to another entity unless that entity had previously been put on notice of its potential liability for penalty costs in the event that it contributed to the RTO or ISO's violation of a Reliability Standard and incurrence of the penalty. "It is therefore important," FERC said, "for the RTOs and ISOs to include provisions regarding the appropriate responsibility for reliability-related monetary penalties in their contracts with their members and customers and/or in their tariffs."

"Penalties are designed to encourage compliance with the Reliability Standards," FERC said. It encouraged RTOs and ISOs to employ proactive mechanisms to prevent penalty assessment, such as planning and operation policies to encourage compliance.

FERC will review rate filings made by RTOs and ISOs that would recover penalty costs by spreading the costs among their members and/or customers, and will consider whether the RTO or ISO had a sound compliance program in place to prevent violations.

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