

127 FERC ¶ 61,198
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Sudeen G. Kelly, Marc Spitzer,
and Philip D. Moeller.

North American Electric Reliability Corporation

Docket No. NP09-21-000

ORDER EXTENDING THE TIME PERIOD FOR CONSIDERATION

(Issued May 29, 2009)

1. On May 1, 2009, the North American Electric Reliability Corporation (NERC) filed a Notice of Penalty in Docket No. NP09-21-000, regarding a zero dollar (\$) penalty that Midwest Reliability Organization (MRO) assessed to Wisconsin Public Service Corporation (WPSC). In the absence of Commission action within thirty (30) days, the penalty would be affirmed by operation of law.¹

2. The penalty relates to WPSC's self-certification that, as a Generator Owner, it was in violation during 2007 of two requirements of the Reliability Standard covering WPSC's program for maintenance and testing of protection systems, PRC-005-1. Requirement R1 of that Standard requires each Generator Owner that owns a generation protection system to have a maintenance and testing program for protection systems that affect the reliability of the Bulk Electric System. Requirement R2.1 states that upon request by its Regional Reliability Organization, such a Generator Owner shall provide documentation of its protection system maintenance and testing program and its implementation, including evidence that protection system devices were maintained and tested within the defined intervals.² Requirements R1 and R2.1 have been assigned a "High" Violation Risk Factor: the Violation Risk Factor reflects the expected risk to reliability of the Bulk-Power System posed by a violation of a particular requirement.

¹ 18 C.F.R. § 39.7(e) (1) (2008).

² MRO so requested this documentation when it directed WPSC to self-certify whether it was in compliance with Requirement R2.1.

3. While the Commission does not expect to move to review every Notice of Penalty or even most,³ it expects NERC's Notices of Penalty to provide adequately detailed information about the nature and circumstances of violations for the Commission to determine whether further review of a Notice is necessary.⁴ The adequacy of the record both supports the rationale for a particular penalty determination in a Notice of Penalty and lessens the likelihood that the Commission will initiate its procedure for further review of the Notice on its own motion. This is not to say that, going forward, the Commission expects the same level of detail in the record of each Notice of Penalty. The appropriate level of detail relates to the particular factual situation in each Notice, including the complexity and relative importance of each violation at issue.

4. The Notice of Penalty in this matter does not provide sufficient information on several issues pertinent to the Commission's consideration. For example, the Notice does not consistently describe the testing intervals for WPSC's protection system testing program before WPSC's self-certification⁵ or describe WPSC's testing intervals after it implemented a mitigation plan to bring itself into compliance. While the Notice refers to a decision by WPSC's management to delay 2006/2007 relay testing, it does not provide any information about when this decision was made, who made it, or whether WPSC considered that this decision could affect its compliance with PRC-005-1. Nor does the Notice define the scope of the violation, i.e., it does not indicate the number of WPSC's protection systems subject to PRC-005-1 or compare that number to the number of protection systems at the 22 generating units referenced in WPSC's mitigation plan.

5. As a result, the Commission is unable to reach a conclusion as to whether or not the Commission should review on its own motion this Notice of Penalty. However, the Notice indicates that MRO or NERC may possess information, not included in the Notice, that bears on issues pertinent to this decision.

6. Therefore, in order to afford additional time for consideration of this Notice of Penalty, as provided for in 18 C.F.R. § 39.7(e)(1) (2008), an extended time period until July 15, 2009 is hereby ordered for the limited purpose of further consideration of the

³ *Statement of Administrative Policy on Processing Reliability Notices of Penalty and Order Revising Statement in Order No. 672*, 123 FERC ¶ 61,046, at P 10 (2008). Through the date of this order, the Commission has declined to review on its own motion 60 Notices of Penalty.

⁴ *Guidance on Filing Reliability Notices of Penalty*, 124 FERC ¶ 61,014, at P 19, 23 (2008).

⁵ The filing indicates an interval of one year, but the table entitled "Substation Test Schedule for Wausau Area, WPSC Relay Test Summary" on the last page of Attachment C of the Notice indicates that no relays were tested within a one-year interval and lists several relays that had not been tested for up to three years.

Notice of Penalty. If no further action is taken by the Commission by July 15, 2009, the penalty will be deemed affirmed by operation of law. To facilitate this consideration, the Commission directs NERC and MRO to file responses to the data requests, attached below, within 20 days from the date of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Attachment

Data Request to: NERC and MRO

Provide from your files the following documents relating to the Notice of Penalty regarding Wisconsin Public Service Corporation (WPSC), FERC Docket No. NP09-21-000:

- (a) The Supplemental Record Information notices issued on October 16, 2008 and November 12, 2008 by MRO;
- (b) Documentation provided by WPSC to MRO to demonstrate completion of Mitigation Plan MT-07-0448;
- (c) Documentation of WPSC's Protection System Maintenance and Testing program from (a) before WPSC's October 23, 2007 self-certification; (b) before the Mitigation Plan was completed; and (c) after the completion of the Mitigation Plan;
- (d) Any additional, available documentation about WPSC's Protection System Maintenance and Testing program, including information about the devices covered under the program;
- (e) Information about the devices covered under the program, including, if available, the number of protection elements covered by the program, the last two dates on which they were most recently tested, and the number of protection elements which were associated with the 22 units identified in the filing;
- (f) Any additional, available documentation regarding the decision by WPSC management to delay generation protection system maintenance and testing; and
- (g) Any available documentation about WPSC's relay testing relating to the Weston Power Plant, including information about when the system test status was "Red."