

130 FERC ¶ 62,111
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

In Reply Refer To:
Office of Enforcement
Docket No. NP10-20-000
January 29, 2010

Rebecca J. Michael
Assistant General Counsel
Holly A. Hawkins
Attorney
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Corporation
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Raymond J. Palmieri
Vice President and Director of Compliance
ReliabilityFirst Corporation
320 Springside Drive, Suite 300
Akron, Ohio 44333

Dear Ms. Michael, Ms. Hawkins and Mr. Palmieri:

1. On December 30, 2009, the North American Electric Reliability Corporation (NERC) filed a Notice of Penalty in Docket No. NP10-20-000, regarding a \$100,000 penalty that ReliabilityFirst Corporation (RFC) assessed to Duke Energy Corporation (Duke Energy). In the absence of Commission action within thirty (30) days, the penalty would have been affirmed by operation of law.¹

2. Pursuant to authority delegated to me in sections 375.311(u) and (v) of the Commission's regulations,² I am extending the time period for the Commission's consideration of this Notice of Penalty for the purpose of directing NERC and RFC to provide information they may possess that may bear on this consideration.

¹ 18 C.F.R. § 39.7(e) (1) (2009).

² *Delegations for Notices of Penalty*, Order No. 724, FERC Stats. & Regs. ¶ 31,298 (2009).

3. 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), an extended time period until March 15, 2010 is hereby ordered for the limited purpose of further consideration of the Notice of Penalty. If no further action is taken by the Commission by that date, the penalty will be deemed affirmed by operation of law. To facilitate this consideration, I direct NERC and RFC to file responses to the enclosed requests for data and documents by February 16, 2010. As appropriate, NERC and RFC may seek non-public treatment of information in the responses pursuant to sections 388.112 or 388.113 of the Commission's regulations, 18 C.F.R. §§ 388.112, 388.113 (2009).

4. If you have any questions, please contact Roger Morie at (202) 502-8446.

Sincerely,

Norman C. Bay
Director
Office of Enforcement

Enclosure

Enclosure

Data and Document Request to: NERC and RFC

To the extent that responsive information or documents are in your files, please answer the following requests relating to the Notice of Penalty regarding Duke Energy Corporation (Duke Energy), FERC Docket No. NP10-20-000:

1. Please provide the Vegetation Outage Questionnaire that Duke Energy submitted to RFC on November 19, 2007 and all information related to NERC Violation ID# RFC200701484 or the accepted mitigation plan related to this violation, as identified in Paragraphs II.B.9 and III.B.26 of the Duke Energy-RFC settlement agreement.
2. Please provide any other information on aerial, vehicle or foot patrols of Duke Energy Indiana transmission line 34516 prior to August 8, 2007.
3. Please state whether any mitigation plan with a NERC or RFC Mitigation Plan number relates to any of the alleged violations described in the Duke Energy-RFC settlement agreement and, if so, provide each such mitigation plan and documentation related to it or its implementation. If there are no such mitigation plans, explain why not.
4. Please describe the results of Duke Energy's outreach program efforts on educating the public on the need to manage vegetation.
5. Please state whether, and on what date(s), during Duke Energy's activities described in Section IV of the Duke Energy-RFC settlement agreement, Duke Energy (or RFC) identified any facilities other than transmission line 34516 that: (a) were not built as designed or have as-built measurements that differ from design so as to have insufficient vegetation or ground clearances; (b) had facility ratings that were inconsistent with Duke Energy's Facility Ratings Methodology; or (c) had any ground clearance or other issue for which Duke Energy rerated or considered rerating the facility. If so, list each such facility and provide any information relating to its identification by Duke, its facility rating and the basis for that rating or any rerating that has occurred or been considered.
6. Please state whether, to RFC or NERC's knowledge, as of 2007 Duke Energy or its affiliates had included any cost in its budgets or programs for 2008, 2009 or 2010 to implement the actions described in Section IV of the Duke Energy-RFC settlement agreement. If so, please identify any such costs.
7. Please state how, during its assessment of this matter, RFC evaluated the relative importance of the alleged violations of FAC-003-1 R2 and FAC-009-1 R1 because, according to the Notice, it appears that RFC became aware that Duke Energy failed to

establish a capacity rating on the transmission line involved in the grow-in contact that was consistent with the minimum conductor to ground clearance according to the National Electric Safety Code.