

130 FERC ¶ 62,112
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

In Reply Refer To:
Office of Enforcement
Docket Nos. NP10-32-000
NP10-33-000
NP10-34-000
NP10-35-000
January 29, 2010

Rebecca J. Michael
Assistant General Counsel
Holly A. Hawkins
Attorney
North American Electric Reliability
Corporation
1120 G Street, N.W.
Suite 990
Washington, D.C. 20005-3801

Marisa A. Sifontes
Compliance Legal Counsel
SERC Reliability Corporation
2815 Coliseum Centre Drive, Suite 500
Charlotte, NC 28217

Dear Ms. Michael, Ms. Hawkins and Ms. Sifontes:

1. On December 30, 2009, the North American Electric Reliability Corporation (NERC) filed Notices of Penalty in the following Docket Nos.:

NP10-32-000, regarding a \$15,000 penalty that SERC Reliability Corporation (SERC) assessed to Gulf Power Company;

NP10-33-000, regarding a \$7,500 penalty that SERC assessed to Mississippi Power Company;

NP10-34-000, regarding a \$7,500 penalty that SERC assessed to Alabama Power Company; and

NP10-35-000, regarding a \$7,500 penalty that SERC assessed to Southern Power Company.

2. In the absence of Commission action within thirty (30) days, these penalties would have been affirmed by operation of law.¹

3. 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 these Notices of Penalty for the purpose of directing NERC and SERC to provide information they may possess that may bear on this consideration.

4. Therefore, in order to afford additional time for consideration of these Notices 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 Notices of Penalty. If no further action is taken by the Commission by that date, these penalties will be deemed affirmed by operation of law. To facilitate this consideration, I direct NERC and SERC to file responses to the enclosed requests for data and documents by February 16, 2010. As appropriate, NERC and SERC 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).

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

Sincerely,

Norman C. Bay
Director
Office of Enforcement

Enclosure

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).

Enclosure

Data and Document Request to: NERC and SERC

To the extent that responsive information or documents are in your files, please answer the following requests relating to the Notices of Penalty in Docket Nos. NP10-32-000 through NP10-35-000:

1. In the Notice of Penalty in Docket No. NP10-32-000, Gulf Power Company (Gulf Power) self-reported to SERC non-compliance with PRC-005-1 R1 on June 30, 2008 at Plant Scholz and non-compliance with PRC-005-1 R2 and R2.1 on November 21, 2008 at Plant Crist and Plant Lansing Smith, about five months apart. Each self-report included separate mitigation plans. Please explain whether there was any connection between these two self-reports and why SERC considered these self-reports as two alleged violations, not one.
2. Gulf Power's June 30, 2008 self-report stated, "At Plant Scholz, the battery inspections/readings were being performed on a quarterly basis, not at the prescribed monthly interval as defined in Southern Company Generation's maintenance plan." The Notice reports that Gulf Power submitted with that self-report a mitigation plan that had a completion date of August 15, 2008 and required Gulf Power to revise its Preventive Maintenance Plan to specify quarterly testing. After Gulf Power completed this action by July 23, 2008, SERC reviewed the mitigation plan and requested that Gulf Power revise the mitigation plan to change the frequency of testing from quarterly to monthly. Provide Southern Company Generation's maintenance plan, the June 30, 2008 mitigation plan, Gulf Power's Preventive Maintenance Plan before and after its revision was completed by July 23, 2008, and any documents relating to SERC's review of the June 30, 2008 mitigation plan or SERC's request that Gulf Power revise it.
3. SERC received Gulf Power's second self-report and the self-reports of Mississippi Power Company (Mississippi Power) in Docket No. NP10-33-000 and Alabama Power Company (Alabama Power) in Docket No. NP10-34-000 on November 21, 2008, and received the self-report of Southern Power Company (Southern Power) in Docket No. NP10-35-000 on November 25, 2008. Please explain the relationship, if any, between these self-reports.
4. Each of the November 2008 self reports states that "the established testing interval by which [the company] maintains and tests its station batteries requires that inspections be performed on a monthly basis," and that "[d]uring November, a review of [the company's] maintenance and testing activities revealed a lack of documentation for the monthly testing of batteries" at some plants. Provide any documentation of the "established testing interval" to which each self-report refers, the date on which that testing interval was established, and the nature and duration of any testing interval at any

particular plant or plants that differed from a monthly basis for any of the four companies. Also, please state why the review of station battery maintenance and testing took place in November 2008, rather than around the time of Gulf Power's first self-report to SERC on June 30, 2008.

5. Paragraph 25(iii) of the settlement agreements in Docket Nos. NP10-33-000 and NP10-35-000 state that Mississippi Power and Southern Power, respectively, "became aware of the possible violation in November 2008," while the corresponding provisions of the settlement agreements in Docket Nos. NP10-32-000 and NP10-34-000 do not state when Gulf Power and Alabama Power, respectively, became aware of the possible violation. Please explain: (a) when Gulf Power and Alabama Power became aware of the possible violation; and (b) why Mississippi Power and Southern Power became aware of the possible violation in November 2008 and not earlier.

6. The Notices in Docket Nos. NP10-32-000 through NP10-35-000 state that Gulf Power, Mississippi Power, Alabama Power and Southern Power, respectively, "proactively initiated its own internal investigation." Please provide the basis for these statements.

7. Each Notice in Docket Nos. NP10-32-000 through NP10-34-000 states, "SERC staff determined that the underlying cause of the referenced alleged violation was an error in the implementation of the program through the failure of the technical services supervisors to clearly communicate to plant personnel responsible for the maintenance and testing that: (1) station batteries must be inspected and tested monthly as required by the Protection System maintenance and testing program and (2) station battery inspections and testing must be properly documented." Please describe the roles of the technical services supervisors, identify the Southern affiliate(s) for which they worked, the relationship between them and the plant personnel responsible for the maintenance and testing, and how and why the technical services supervisors failed to make the referenced clear communication to the plant personnel.

8. The Notice in Docket No. NP10-35-000 states, instead, that SERC staff determined the underlying cause of the alleged violation as to Southern Power Company was "an error in the implementation of the program through the failure to clearly communicate to plant personnel," without mentioning technical services supervisors. Please explain why the underlying cause of the alleged violation was differently stated in this Notice.

9. Please state whether the maintenance and testing records or programs for the station batteries that SERC staff reviewed indicated whether any station batteries were inoperative, malfunctioning, or needed repair, replacement, or calibration or other adjustment when inspected or tested. If so, please provide documentation of each specific instance.

10. Please describe how SERC and NERC staff considered the different number of generation plants, the varying numbers of station batteries, and the different numbers of batteries that were not inspected or tested at the monthly interval with respect to assessing a \$7,500 penalty for Mississippi Power, Alabama Power and Southern Power and a \$15,000 penalty for Gulf Power, the four companies that were the subject of settlement agreements in Docket Nos. NP10-32-000 through NP10-35-000.

11. Please provide any information SERC or NERC obtained on the costs that any of the four companies forewent by failing to inspect or test all station batteries on a monthly basis, or the total annual cost of each company's station battery inspection and testing programs, and state whether and, if so, how SERC or NERC considered these costs when assessing the penalties in any of these Notices.

12. Please state whether and, if so, how SERC or NERC considered as to any of these four notices the concept of economic choice, expressed in Paragraph 455 of the Commission's Order No. 672 as follows: "A monetary penalty must be assessed and structured in such a way that a user, owner, or operator of the Bulk-Power System does not consider its imposition as simply an economic choice or a cost of doing business ..."

13. Paragraph 11 of each settlement agreement in Docket Nos. NP10-32-000 through NP10-35-000 states that the company has a protection system maintenance and testing program "that is common to all of the operating companies of Southern Company and was reviewed by SERC Staff as part of a Spot Check Audit of Georgia Power Company . . . to determine compliance with NERC Reliability Standard PRC-005-1. Pursuant to this program, station batteries are scheduled to be inspected on a monthly basis to ensure the integrity of the batteries." Please provide any information or documents relating to this spot check audit and its results, and state when and how SERC staff reviewed the provisions of the program that relate to station batteries.