

129 FERC ¶ 61,119
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. NP10-2-000

ORDER ON OMNIBUS NOTICE OF PENALTY FILING

(Issued November 13, 2009)

1. On October 14, 2009, the North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization (ERO), filed an Omnibus Notice of Penalty (Omnibus Filing) in which NERC requests Commission approval of 564 proposed penalties for non-compliance with mandatory Reliability Standards.¹ The 564 violations pertain to 140 entities across the nation, which are registered with NERC to perform certain Bulk-Power System reliability functions. Of the 564 penalties, 541 penalties include the assessment of a zero dollar (\$0) penalty. The remaining 23 penalties include a monetary assessment, ranging from \$1,000 to \$15,000, for a total of \$91,000, assessed against eight registered entities.

2. In this order, the Commission concludes that it will not further review any of the 23 “non-zero dollar” monetary penalties submitted in the Omnibus Filing.

3. Contemporaneously with this order, the Office of the Secretary is issuing a notice that the Commission will not further review on its own motion all violations with zero dollar penalties submitted under the Omnibus Filing.

I. Background

4. Pursuant to section 215(e) of the Federal Power Act,² and section 39.7(c) of the Commission’s regulations,³ NERC, as the Commission-approved ERO, must file a

¹ On November 5 and November 12, 2009, NERC made supplemental filings that included additional documentary information relevant to certain specific violations.

² 16 U.S.C. § 824o(e) (2006).

³ 18 C.F.R. § 39.7(c) (2009).

Notice of Penalty with the Commission before a Regional Entity or NERC penalty assessment for the violation of a Reliability Standard takes effect. Each penalty determination is subject to Commission review, on its own motion or by an application for review by the subject of a penalty within thirty days after the date NERC files the applicable Notice of Penalty. In the absence of the filing of an application for review of a penalty or motion or other action by the Commission, each penalty filed by NERC shall be affirmed by operation of law upon the expiration of the applicable thirty-day period. The thirty-day period expires on November 13, 2009 with respect to the penalties submitted in NERC's Omnibus Filing.

5. The violations in this filing reflect conduct by registered entities within the footprint of the following Regional Entities: Florida Reliability Coordinating Council, Inc. (FRCC), Midwest Reliability Organization (MRO), ReliabilityFirst Corporation (RFC), SERC Reliability Corporation (SERC), Southwest Power Pool Regional Entity (SPP), and the Western Electricity Coordinating Council (WECC). NERC states that the matters in the Omnibus Filing largely represent older violations that were discovered prior to July 3, 2008, the date of the Commission's order that set forth its expectation for the development of records in forthcoming Notices of Penalty.⁴ NERC states, generally, that while the records in these matters do not measure up to the criteria stated in that order, no significant reliability benefit would be gained by attempting to develop the record in each matter fully. NERC asserts that closing the older, relatively minor cases in the Omnibus Filing will enable NERC and the Regional Entities to concentrate on more significant violations.

6. NERC explains that, to be included in the Omnibus Filing, possible violations had minimal to moderate impact on Bulk-Power System reliability but did not pose a serious or substantial risk to the Bulk-Power System. In all cases, according to NERC, mitigation plans associated with the violations have been completed and verified by the relevant Regional Entity as completed.

7. The Omnibus Filing includes Notices of Confirmed Violation that assess, through negotiated settlements, non-zero dollar penalties against eight separate registered entities. These settlements involve twenty-three violations and, as previously noted, total \$91,000 in penalties. FRCC negotiated one settlement; RFC negotiated five settlements; and SERC negotiated two settlements. For each zero dollar penalty, NERC submitted an "Expedited Disposition" Agreement, a short-form letter agreement between a Regional Entity and the specific registered entity. Each Expedited Disposition Agreement lists the violations subject to the agreement and states that acceptance of the Agreement and

⁴ *Guidance on Filing Reliability Notices of Penalty*, 124 FERC ¶ 61,015 (2008) (July 3 Order).

fulfillment of the conditions set forth in it results in the assessment of zero dollar penalties for the listed violations. Further, an Expedited Disposition Agreement typically provides that all listed violations “will be considered Confirmed Violations for all purposes and may be used as aggravating factors in accordance with the NERC Sanction Guidelines for determining appropriate monetary penalties or sanctions for future violations.”

8. NERC asserts that certain attachments to its filing include confidential information as defined by Part 388 of the Commission’s regulations as well as the NERC Rules of Procedure, such as non-public information related to violations of certain Reliability Standards, certain Regional Entity investigative files, sensitive business information pertaining to one or more registered entities and confidential information regarding critical energy infrastructure. NERC redacted non-public information from its public filing and provided that information under separate cover.

9. Of the 564 penalties submitted, the great majority concern entities registered with WECC. FRCC submitted 63 penalties; MRO submitted two; RFC submitted 23; SERC submitted three; SPP submitted 11; and WECC submitted 464. Violations of Requirements R1 through R4 of Reliability Standard CIP-001-1, requiring procedures for sabotage reporting, accounted for the largest number of penalties. Violations of the requirements of Reliability Standard PRC-005-1, requiring certain registered entities to have and implement a protection system maintenance and testing program, accounted for the second largest number of penalties. Other violations that appeared in the Omnibus Filing with relative frequency include violations of the requirements of FAC-008-1 and FAC-009-1, mandating that a registered entity develop a facilities rating methodology and apply the methodology to its facilities, and particular TOP-002-2 requirements that require coordination and communication of certain operating information. A total of 145 penalties were for violations of requirements with a "High" Violation Risk Factor; the remainder reflected violations of requirements assigned a "Medium" or "Lower" Violation Risk Factor.

10. On October 30, 2009, the Commission issued Order No. 728, an instant final rule in which it delegates certain authority to the Commission’s Secretary and the Director of the Office of Enforcement with respect to the processing of Notices of Penalty.⁵ In particular, Order No. 728 delegates to the Director of the Office of Enforcement (Director) authority to direct NERC or a Regional Entity to submit further information relating to a Notice of Penalty and to extend the time for consideration of the Notice of

⁵ *Delegations for Notices of Penalty*, 129 FERC ¶ 61,094 (2009) (Order No. 728). Order No. 728 became effective on November 5, 2009, the date of its publication in the *Federal Register*. See 74 FR 57246 (November 5, 2009).

Penalty to consider the new information.⁶ Order No. 728 also delegates to the Secretary the authority to issue a public notice that the Commission will not further review a Notice of Penalty.⁷ The Commission stated that this delegation of authority applies only in zero dollar penalty cases that do not raise significant concerns or other issues. The Commission provided specific examples in which a formal Commission vote will be necessary to issue a notice of no further review, including: an assessment or settlement involving a penalty dollar amount greater than zero; a penalty that appears low based on the facts presented; conduct or an event that may pose a high risk to the Bulk-Power System; or a special or unique legal question, such as one involving Commission jurisdiction.⁸

II. Discussion

11. The Commission addresses in this order whether it will further review the eight settlement agreements in the Omnibus Filing in which Regional Entities propose penalty amounts greater than zero. The Secretary and the Director will address all proposed zero dollar penalties pursuant to authority the Commission delegated in Order No. 728. Based on a careful review of the Omnibus Filing, the Director has determined not to extend the time period for consideration whether to further review any zero dollar penalty in the Omnibus Filing. As previously stated, the Secretary is issuing a notice contemporaneously with this order that the Commission will not further review any zero dollar penalty in the filing.

A. Non-Zero Dollar Penalties

12. The following paragraphs describe the violations by each of the eight registered entities for which a Regional Entity proposes a non-zero dollar penalty and the basis for the non-zero dollar penalty amounts in the Omnibus Filing. The Commission declines further review on its own motion of these Notices of Confirmed Violation and related settlements.⁹

⁶ Order No. 728 at P 6; *see also* sections 375.311(u) and (v) of the Commission's regulations, as promulgated by Order No. 728.

⁷ Order No. 728 at P 7; *see also* section 375.302(aa) of the Commission's regulations, as promulgated by Order No. 728.

⁸ Order No. 728 at P 8.

⁹ The Commission continues to encourage settlements of alleged violations by the Regional Entities and NERC, and reiterates that it normally expects to allow these ERO
(continued...)

1. City of Homestead Electric Utilities, Violation ID Nos. FRCC20080071 through FRCC20080079

13. On March 30, 2008 and April 1, 2008, FRCC performed an on-site compliance audit of City of Homestead Electric Utilities (Homestead). FRCC found nine possible violations of requirements of six standards. Homestead and FRCC settled each of these violations for varying penalty amounts totaling \$47,000.

14. BAL-005-0 Requirement R2 requires that each Balancing Authority maintain Regulating Reserve that can be controlled by Automatic Generation Control (AGC) to meet the Control Performance Standard. This requirement has a High Violation Risk Factor. BAL-005-0 Requirement R7 requires that a Balancing Authority operate AGC continuously unless such operation adversely impacts the reliability of the Interconnection. This requirement has a Medium Violation Risk Factor. FRCC did not see evidence that Homestead was maintaining a Regulating Reserve that can be controlled by AGC or operating its AGC continuously as required. Homestead completed a mitigation plan for these requirements on June 29, 2008, which FRCC verified on September 9, 2008. FRCC assessed a penalty of \$15,000 for violation of R2 and \$5,000 for violation of R7.

15. BAL-005-0 Requirement R8 requires that a Balancing Authority ensure that data acquisition for and calculation of Area Control Error (ACE) occur at least every six seconds. This requirement has a Medium Violation Risk Factor. Before March 10, 2008, Homestead did not configure its redundant frequency source in the Energy Management System to automatically activate when the primary source fails so as to ensure continuous data acquisition for ACE. On July 23, 2008, FRCC verified the violation from June 18, 2007 through March 10, 2008 and assessed a \$5,000 penalty for this violation.

16. BAL-005-0 Requirement R11 requires that a Balancing Authority include the effect of ramp rates in the Scheduled Interchange values to calculate ACE. This requirement has a Medium Violation Risk Factor. Homestead did not include the effects of ramp rates in its Scheduled Interchange values. FRCC verified on September 9, 2008 that Homestead mitigated this violation as of September 4, 2008. FRCC assessed a penalty of \$5,000 for this violation.

17. EOP-001-0 Requirement R6 requires that an entity update its emergency plans annually and share those plans with its Reliability Coordinator and neighboring

or Regional Entity settlements to become effective. *Rules Concerning Certification of the Elec. Reliability Org.; Procedures for the Establishment, Approval, & Enforcement of Elec. Reliability Standards*, 123 FERC ¶ 61,046 at P 18 (2008).

Transmission Operators and Balancing Authorities. This requirement has a Medium Violation Risk Factor. Homestead could not show that it had posted its emergency plans to a common website before March 24, 2008. FRCC verified the violation and mitigation on July 23, 2008. FRCC assessed a penalty of \$1,000 for this violation.

18. FAC-008-1 Requirement R1 requires documentation of the current methodology used for developing Facility Ratings (Facility Ratings Methodology) of solely and jointly owned Facilities. This requirement has a Lower Violation Risk Factor. FAC-009-1 Requirement R1 requires that the entity establish Facility Ratings consistent with the FAC-008-1 methodology. This requirement has a Medium Violation Risk Factor. Homestead could not provide evidence of a rating methodology for substation terminal equipment and relay settings, or for normal/emergency ratings on other facilities for the period from June 18, 2007 through January 28, 2008. Homestead could not provide evidence that it established a facility rating for relay settings sensitive to system load using its rating methodology. Homestead revised its mitigation plan twice before successfully completing it on October 31, 2008. FRCC verified completion of the mitigation plan on February 16, 2009. FRCC assessed a penalty of \$1,000 for violation of FAC-008-1 and \$7,000 for violation of FAC-009-1.

19. PRC-005-1 Requirement R1 requires that an entity subject to the standard have a maintenance and testing program for protection systems that affect the reliability of the Bulk Electric System. This requirement has a High Violation Risk Factor. Through March 19, 2008, Homestead's program did not include testing of communication systems, voltage and sensing devices, battery systems and DC control systems. On July 23, 2009, FRCC verified the violation and its duration. FRCC assessed a penalty of \$4,000 for this violation.

20. TOP-002-2 Requirement R9 requires each Balancing Authority to plan to meet Interchange Schedules and ramps. This requirement has a Lower Violation Risk Factor. FRCC found no evidence that Homestead planned to meet interchange schedules and ramps. Homestead completed its mitigation plan on September 4, 2008, and FRCC verified completion on September 9, 2008. FRCC assessed a penalty of \$4,000 for this violation.

21. The penalties for these confirmed violations do not warrant further review. Homestead resolved certain violations on its own discovery and initiative before the audit occurred, and mitigated the violations discovered in the audit. The penalty assessments are appropriate because, while the violations occurred outside the initial period after Reliability Standards became mandatory in the United States, June 18, 2007 through December 31, 2007, Homestead mitigated or planned to mitigate the violations within the first twelve months after the Standards became mandatory. Furthermore, FRCC found that, due to certain mitigating circumstances, none of these violations posed a serious or substantial risk to the Bulk-Power System. The Commission finds that this settlement is

within the range of reasonableness for these Standards and Requirements for the facts presented.

2. City of Lansing Board of Water and Light, Violation ID No. RFC200800059

22. On July 30, 2009, RFC and City of Lansing Board of Water & Light (Lansing) resolved a PRC-005-1 Requirement R2.1 violation with a settlement for a \$6,500 penalty. During an audit in April 2008, RFC discovered that Lansing failed to test fifteen percent of its transmission relays within the relevant maintenance and testing intervals. This Requirement has a High Violation Risk Factor.

23. Lansing mitigated by performing all required tests as of April 22, 2008 and purchasing, for \$53,175, an additional protective relay test system to ensure that Lansing would meet its relay testing schedule in the future. Lansing also agreed to implement a new training program at a cost of \$13,800. In reaching settlement, RFC considered that Lansing's violations did not pose a serious or substantial risk to system reliability and that the violations occurred within the first year after the Reliability Standards became mandatory and enforceable.

24. The Commission concludes that this settlement does not warrant further review. This is Lansing's first violation, and Lansing took immediate steps to mitigate the violation and prevent future occurrences. Moreover, RFC found that the violation did not pose a serious or substantial risk to system reliability. The Commission finds that this settlement is within the range of reasonableness for this Standard and Requirement for the facts presented.

3. City of Rochelle Municipal Utilities, Violation ID Nos. RFC200800089 through RFC200800093

25. On April 4, 2008, the City of Rochelle (Rochelle) self-reported to RFC violations of the following Standards: (1) FAC-001-0 R1 and R2 for failing to document, maintain, and publish facility connection requirements; (2) FAC-008-1 R1 for failing to document its current methodology for developing its facility ratings; (3) FAC-009-1 R1 for failing to establish facility ratings; and (4) PRC-005-1 R1 for failing to have a protection system maintenance and testing program. FAC-001-0 R1 and R2 and FAC-009-1 R1 each have a Medium Violation Risk Factor. FAC-008-1 R1 has a Lower Violation Risk Factor. PRC-005-1 R1 has a High Violation Risk Factor. RFC determined that none of these violations posed a serious or substantial risk to system reliability. RFC entered into an Expedited Disposition Agreement with Rochelle to settle all five violations with a \$7,500 penalty.

26. The Commission finds that this penalty does not warrant further review. Rochelle self-reported these violations in April 2008, which was within the first year after the

Reliability Standards became enforceable, and promptly developed a mitigation plan that RFC verified as having been completed. RFC determined that these violations did not pose a serious or substantial risk to reliability. This settlement is within the range of reasonableness for these Standards and Requirements for the facts presented.

4. DTE East China, LLC, Violation ID Nos. RFC200800057 through RFC200800058

27. In a May 9, 2008 audit, RFC found that DTE East China, LLC (DTE) violated FAC-008-1 Requirement R1 and FAC-009 Requirement R1, which require that an entity have a facility ratings methodology and document facility ratings for its equipment. These Requirements have a Lower and Medium Violation Risk Factor, respectively. DTE failed to create and implement a facility ratings methodology that included protection system devices and both normal and emergency ratings. RFC settled these violations with a \$5,000 penalty.

28. This penalty does not warrant further review. These are the first violations by DTE, and began on April 8, 2008. DTE promptly developed a mitigation plan that RFC verified as complete on July 4, 2008. RFC found that the violations did not pose a serious or substantial risk to system reliability. The Commission finds that the settlement is within the range of reasonableness for these Standards and Requirements for the facts presented.

5. LSP-Whitewater, LP, Violation ID Nos. RFC200800062 through RFC200800063

29. In an audit in May 2008, RFC found that LSP-Whitewater, LP (LSP-Whitewater) violated FAC-009-1 R1, regarding the establishment of facility ratings (a requirement with a Medium Violation Risk Factor), and PRC-005-1 R1.1, regarding establishment of a testing interval in protection system maintenance and testing programs (a requirement assigned a High Violation Risk Factor). Specifically, RFC discovered that LSP-Whitewater failed to establish facility ratings for relay protective devices, and that LSP-Whitewater failed to establish a specific time interval for testing within its protection system maintenance and testing program. RFC settled these violations with a \$6,000 penalty after confirming that LSP-Whitewater mitigated by revising its ratings methodology and its protection system maintenance and testing procedures.

30. The Commission will not further review this settlement. RFC determined that the violations did not pose a serious or substantial risk to system reliability. The violations arose in the first year in which the Standards became enforceable, and the entity mitigated them promptly. Moreover, these are LSP-Whitewater's first violations, and the settlement is within the range of reasonableness for these Standards and Requirements for the facts presented.

6. Mirant Potomac River, LLC, Violation ID No. RFC200700006

31. On August 31, 2007, Mirant Potomac River, LLC (Mirant) self-certified to RFC a violation of Reliability Standard PRC-005-1 Requirement R2.1. Pursuant to this requirement, Mirant must provide evidence that it maintained and tested its protection system devices within predetermined and defined time intervals. Mirant agreed to a \$5,000 penalty for violating this requirement, which has a High Violation Risk Factor.

32. Mirant self-certified that it failed to calibrate and/or functionally test several protective system relays within the four-year maintenance and testing interval defined in Mirant's maintenance and testing program. Mirant also reported that its program did not include maintenance and testing of protection system DC circuitry. Mirant completed the maintenance and testing of the relays by October 2007, and pledged to revise its program to include DC circuitry, and test the DC circuitry, by February 2008. On February 19, 2008, Mirant provided evidence and certification that it had completed the stated mitigation. On June 3, 2008, Mirant self-reported that it found additional protection system devices it had not tested as part of its maintenance and testing program. Mirant certified on October 24, 2008 that it tested these devices and revised its program to include regular testing of these devices. RFC reviewed the evidence and accepted the mitigation and completion of the same on December 20, 2008.

33. This settlement does not warrant further review. Mirant self-certified the violation within the initial period of enforcement of Reliability Standards, June 18, 2007 through December 31, 2007, and mitigated promptly and satisfactorily. Mirant had no prior history of violations. Furthermore, Mirant proactively investigated its maintenance and testing history and also the scope of its program, and promptly reported the additional identified deficiencies. The Commission finds that this settlement is within the range of reasonableness for this Standard and Requirement for the facts presented.

7. Associated Electric Cooperative, Inc., Violation ID No. SERC200800149

34. On June 27, 2008, Associated Electric Cooperative, Inc. (AECI) self-reported to SERC, based on an internal audit, non-compliance with BAL-005-0, Requirement R8.1. To satisfy the requirement, AECI must provide redundant frequency metering equipment that activates automatically upon the failure of the primary source, and the system must be available for 99.95 percent of the year. AECI determined that it did not meet this requirement from November 19, 2007 to April 13, 2008, and that the primary and backup equipment actually failed on April 11, 2008 for approximately 20 hours, exceeding the maximum annual lack of availability permitted by the requirement. SERC verified that AECI fully mitigated as of September 2008 by training its personnel on the requirement and installing a new device to frequently test backup frequency measurement devices and alert System Operators of any unavailability. AECI settled the violation with a \$6,000 penalty. This violation has a Medium Violation Risk Factor.

35. The Commission declines further review on its own motion of this settlement. AECI self-reported the violation after an internally-initiated audit and promptly mitigated. In addition, the violation arose in the initial period of compliance with the mandatory Standards, June 18, 2007 through December 31, 2007, and AECI mitigated within the first year of the Standards becoming mandatory and enforceable. This settlement is within the range of reasonableness for this Standard and Requirement for the facts presented.

8. Duke Energy Carolinas, LLC, Violation ID Nos. SERC200800110 and SERC200800107

36. On April 15, 2008, Duke Energy Carolinas, LLC (Duke) self-reported violations of Reliability Standards FAC-008-1, Requirement R.1.2.2, requiring a documented methodology for determining facility ratings of affiliate transmission facilities, and FAC-009-1, Requirement R1, requiring establishment of facility ratings for its facilities. Duke failed to specify that it used the same methodology to determine normal and emergency ratings for less than two percent of its affiliated transmission facilities. Duke also did not apply its ratings methodology to its facilities, resulting in ratings that exceeded the appropriate rating for 11 out of over 600 facilities. Duke promptly mitigated, and SERC verified complete mitigation in June 2008. SERC determined that these violations of requirements that have a Medium Violation Risk Factor posed insignificant risk to the Bulk-Power System. Duke and SERC settled these violations with an \$8,000 penalty.

37. This settlement does not warrant further review. Duke self-reported the violations and mitigated them within the first 12-month period after Reliability Standards became mandatory and enforceable in the United States. In addition, the violations affected a small percentage of Duke's Bulk-Power System facilities and posed insignificant risk to the Bulk-Power System. The Commission finds that this settlement is within the range of reasonableness for these Standards and Requirements for the facts presented.

B. Additional Considerations

38. The Commission recognizes that NERC and the Regional Entities face a backlog in the processing of Notices of Penalties. In a recent order, the Commission indicated that it shared concerns of NERC, the Regional Entities and industry stakeholders on the transparency and timeliness of the Notice of Penalty process.¹⁰ We believe that NERC's Omnibus Filing, which addresses 564 older violations, greatly reduces the Notice of

¹⁰ *Further Guidance Order on Filing of Reliability Notices of Penalty*, 129 FERC ¶ 61,069 at 6 (2009) (Further Guidance Order).

Penalty backlog.¹¹ In the Omnibus Filing, NERC states that it anticipates submitting a future “batch” Notice of Penalty filing to address similar, older violations once mitigation has been completed and verified.¹² While the Commission does not expect such batch filings on an ongoing basis, the Commission does support a second batch filing as anticipated by NERC to further reduce NERC’s and the Regional Entities’ compliance backlog.

39. The Commission does not anticipate moving to review every future Notice of Penalty—or even most—but expects NERC to provide appropriately detailed information about the nature and circumstances of each violation to allow the Commission to determine whether further review of a Notice is necessary.¹³ While continuing to concur with the July 3 Order’s observation that “Detailed information on the duration and nature of violations of Reliability Standards is crucial to development of adequately-documented records that support penalty determinations,”¹⁴ we have stated in recent orders that “[t]he appropriate level of detail relates to the particular factual situation in each Notice, including the complexity and relative importance of each violation at issue.”¹⁵

40. Within the context of our guidance on required documentation, we look forward to receiving streamlined Notices of Penalty in future cases, following the consultations between our staff and NERC and efforts by NERC, Regional Entities and stakeholders to develop short form or *pro forma* Notices of Penalty in appropriate cases that we recently encouraged.¹⁶ The development of such simplified filings will help limit future backlogs in compliance matters under NERC’s Compliance Monitoring and Enforcement Program and will permit NERC and Regional Entities to concentrate their compliance efforts on more important violations.

¹¹ *Id.* at P 7.

¹² Omnibus Filing, NERC transmittal letter, at 3.

¹³ July 3 Order at P 19, 23 (2008).

¹⁴ *Id.* at P 22.

¹⁵ *See* Further Guidance Order at P 9 (quoting *North American Electric Reliability Corp.*, 127 FERC ¶ 61,198 at P 3 (2009)).

¹⁶ Further Guidance Order at P 10 (finding merit in NERC’s proposal to create an abbreviated format for Notices of Penalty that conforms to the limited significance of particular types of violations or alleged violations).

41. The Commission also observes that zero dollar penalties comprise the vast majority of penalties in the Omnibus Filing and the majority of penalties that Regional Entities so far have assessed. While the zero dollar penalties NERC has filed with the Commission reflect the transition to mandatory Reliability Standards, an increasing level of compliance with the Standards will continue to be the objective of NERC's Compliance Monitoring and Enforcement Program. The zero dollar penalties in Notices of Penalty filed thus far often have involved self-reports of violations; prompt submission and completion of responsible mitigation plans that the relevant Regional Entity and NERC approve when first submitted; a lack of aggravating factors such as an intentional violation, concealment of violation, or prior violations; significant cooperation; and insubstantial expected or actual risk to the Bulk-Power System (typically involving those Requirements with Low or Medium Violation Risk Factors). The Commission expects that zero or low dollar penalties in Notices of Penalty often will be appropriate with respect to future violations of Reliability Standards that have similar factual patterns, especially when there is evidence that the registered entity has a strong culture of compliance.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.