

**FERC Approves \$25M Penalty for Florida Power and Light Company's
Role in 2008 Florida Blackout**

October 8, 2009

Earlier today, the Federal Energy Regulatory Commission (FERC) approved a stipulation and consent agreement with Florida Power and Light Company (FPL) that included a \$25 million penalty to be paid by FPL to resolve potential violations of mandatory Reliability Standards related to the February 26, 2008 Florida Blackout. That event resulted in the loss of 3,650 MW of customer load, and left some noninterruptible customers without power for more than two hours.

The agreement, which contains one of the largest civil penalties ever approved by FERC, is also the first settlement resulting from a reliability investigation headed by FERC enforcement staff, and follows FERC's public announcement that it—rather than the North American Electric Reliability Corporation (NERC) or the Florida Reliability Coordinating Council, the two entities usually responsible for the enforcement of Reliability Standards in Florida—would investigate the blackout.

According to the statements in the FERC order, the blackout occurred as a result of actions taken by FPL engineering personnel. On February 26, 2008, when testing a circuit switcher at a transmission substation, an FPL engineer disabled both the primary and secondary protections for the circuit switcher but failed to notify the FPL control center of the disabled protection systems. When the circuit switcher was then opened at the request of the engineer, a failure of the circuit switcher's bottle interrupter caused a fault on the system. Because the protection systems had been disabled, this fault ultimately caused frequency swings and voltage excursions, resulting in the tripping of transmission and generation assets throughout the lower two-thirds of the state.

To settle any potential Reliability Standard violations resulting from these actions, FPL will pay \$10 million to the U.S. Treasury and \$10 million to NERC and will expend \$5 million on reliability enhancements in addition to those outlined in the agreement. FPL also committed to implementing additional redundancy protections at various transmission substations and to undertaking significant new reliability measures in addition to those covered by the \$5 million commitment. These additional reliability enhancements include enhancements to FPL's Reliability Standards compliance program, employee training and certification programs, frequency response measures, emergency operating procedures, operations staffing levels, and equipment maintenance program. FPL will also submit quarterly progress reports to FERC and NERC describing its implementation of these measures.

As noted by FERC Commissioners Spitzer and Moeller in their concurring opinions, the commission did not explain its reasoning in approving the consent agreement. Indeed, neither the order nor the

agreement explains which Reliability Standards FPL may have violated. Nevertheless, FERC emphasized several circumstances that were central to its decision to approve this settlement as an appropriate remedy. According to FERC, a “serious” outage did occur, but there was no evidence that FPL acted intentionally or fraudulently. FPL also received credit for demonstrating “exemplary cooperation” during the investigation of the blackout and for voluntarily implementing a variety of reliability enhancements. According to the consent agreement, FPL “does not admit that its actions constitute violations of the Reliability Standards or that it committed any violations,” and the agreement “does not constitute an admission of liability or wrongdoing by FPL to any third party.”

This penalty demonstrates the risks faced by users, owners, and operators of the bulk-power system under the regime of mandatory Reliability Standards, even as a result of decisions made and actions taken below the management level, particularly when there is serious harm or the threat of serious harm to system reliability. The significant financial penalty resulting from this settlement also indicates the increasing attention that FERC is now giving to the enforcement of Reliability Standards.

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