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FERC Audit Recommends Changes to Improve SPP Independence, SPP Agrees FERC Also Gives Guidance on Reliability Compliance Audits

The Federal Energy Regulatory Commission (FERC) today issued an audit report of the Southwest Power Pool Inc.'s (SPP) regional reliability function that finds that once SPP implements the recommended improvements, the governance structure will enable "very strong" separation between its reliability and regional market functions.

Today's audit report represents the first FERC audit of a regional entity that operates under North American Electric Reliability Corporation (NERC) reliability standards. It was intended to enable FERC to determine whether SPP, which operates a regional market and determines compliance with reliability standards, has adequately separated its market and reliability functions. This is a requirement of FERC Order No. 672.

"Regional entities must have sufficient independence to assure effective enforcement of regional market compliance with reliability standards," FERC Chairman Joseph T. Kelliher said. "SPP is a regional market operator that is subject to the reliability standards that, as a regional entity, it is required to uphold. For that reason, it is important that FERC takes steps to assure independence of the regional entity function."

FERC approved SPP as a regional reliability entity in April 2007. The audit, begun in October 2007, found insufficient separation between regional market and reliability operations. The audit report identifies three areas of concern: the regional entity's lack of independence from the market operator; the need to improve oversight of regional functions by SPP regional entity trustees to prevent conflicts of interest and to assure independence of the reliability operators; and the adequacy of SPP's implementation of its compliance monitoring and enforcement plan.

The report made recommendations for improvement, including to hire a regional manager and to ensure that the manager and reliability counsel keep SPP trustees apprised of all reliability operations. SPP has agreed to do so, and also will be required to design a compliance plan and submit it to FERC.

In a related matter today, FERC provided additional guidance on conducting compliance audits to NERC and the eight regional entities to which NERC has delegated responsibility for enforcing the FERC-approved reliability standards (AD09-3-000). Under FERC-approved delegation agreements the regional entities conduct numerous compliance audits of registered utilities. NERC also conducts compliance audits, including audits of whether a regional entity or an affiliate has complied with reliability standards. The guidance came from FERC staff's observations on these audits.

"The reliability enforcement scheme is complicated, involving not just FERC, but also NERC and eight regional entities," Chairman Kelliher said. "However, FERC is ultimately responsible for enforcement of mandatory reliability standards. In order to achieve effective enforcement, it is important to have consistency in the approach towards enforcement by these various entities. Greater consistency should also benefit the regulated community. To achieve greater consistency, it will be necessary for FERC to provide guidance to





NERC and the regional entities from time to time through guidance orders and other vehicles.”

Among the specific guidance FERC gave NERC are:

- NERC should control a NERC-led audit.
- Audit training should include skills in interviewing and evaluating evidence.
- Make sure audit team requests for information are as consistent as possible among Regional Entities.
- NERC and regional entities should be as consistent as possible as to documentation needed to show compliance.
- Audit teams should allot sufficient time for pre-audit preparation and review.
- Compliance audit teams should not base determinations about compliance on the level of possible penalties or other sanctions that could be applied.
- Compliance auditors should assess the registered entity’s reliability standards compliance program, consistent with the Commission’s recent Compliance Policy Statement.
- Compliance auditors should proactively notify registered entities of matters that may develop into violations.

Implementation of this guidance “will improve consistency of compliance audits relating to reliability standards and result in greater compliance with them,” FERC said.