

## Utility MACT and Reliability: One More Brief Post

January 31, 2012 by [Seth Jaffe](#)

When I [last posted](#) on the potential impact of the Utility MACT rule on electric system reliability, I swore I was done with the subject. I knew then it was probably a mistake. Yesterday, [FERC announced](#) that it has issued a [White Paper](#) on how it will respond to requests by generators to EPA for an extension of time to comply under the Utility MACT rule. Since FERC has invited comments on the White Paper, it seemed worthy of note.

As those who have followed the progress of the MACT rule know, EPA has allowed a basic compliance period of three years. EPA has also provided for a one-year extension in some cases. Beyond that, EPA has provided that facilities which cannot comply within 4 years and which are critical to electric system reliability may seek a further extension through an administrative order. EPA also provided that it will take comment from experts, including FERC, on applications for such further extensions.

The White Paper sets forth FERC staff's views on how FERC should handle such requests for comment. The process would be as follows:

- AO requests would be filed with the Commission Secretary (It is important to note that all AO requests must include a "concurrence with the reliability risk analysis" by the relevant "Planning Authority", such as an ISO, or an explanation as to why such concurrence cannot be provided.)
- Requests would be treated as informational filings.
- Intervention would not be allowed.
- FERC review "should be whether, based on the circumstances presented, there might be a violation of a Commission-approved Reliability Standard" in the absence of the extension.
- The White Paper reserves the question regarding whether FERC review will be *de novo* or grant some deference to the analysis provided by the Planning Authority.

The White paper notes that it is specifically seeking comment regarding both the scope of its review of AO requests and the level of deference, if any, to give to the Planning Authority analysis. Comments may be provided by February 29, 2012, at the [eFiling link](#) on the [FERC web site](#).

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