

Steps 1 & 2: Identify and Adjust Violation Level* (Violation Level resulting from Steps 1 & 2 corresponds to dollar amount in Violation Level Penalty Table)

Violations of Commission-Approved Electric Reliability Standards Base Violation Level = 16	Violations Involving Fraud, Anti-Competitive Conduct, Commission Rule, Tariff or Order Base Violation Level = 6	Misrepresentations and False Statements to Commission or Commission Staff Base Violation Level = 18																																				
<p>Adjust Base Violation Level According to 2 Factors.</p> <p>1) <u>Type of Risk Posed by Violation.</u></p> <ul style="list-style-type: none"> Low risk of harm Moderate risk of harm High risk of harm <p>2) <u>Type of Harm Posed by Violation.</u></p> <ul style="list-style-type: none"> Minor harm Substantial harm Major harm Extreme harm <p><u>Examples:</u></p> <ul style="list-style-type: none"> Violation creates low risk of substantial harm: + 3 Violation creates moderate risk of major harm: + 9 Violation creates high risk of extreme harm: + 16 <table border="1"> <thead> <tr> <th>Risk/Harm Points Table</th> <th>Minor Harm</th> <th>Subst. Harm</th> <th>Major Harm</th> <th>Extreme Harm</th> </tr> </thead> <tbody> <tr> <td>Low Risk</td> <td>+ 0</td> <td>+ 3</td> <td>+ 7</td> <td>+ 12</td> </tr> <tr> <td>Mod. Risk</td> <td>+ 3</td> <td>+ 5</td> <td>+ 9</td> <td>+ 14</td> </tr> <tr> <td>High Risk</td> <td>+ 5</td> <td>+ 7</td> <td>+ 12</td> <td>+ 16</td> </tr> </tbody> </table>	Risk/Harm Points Table	Minor Harm	Subst. Harm	Major Harm	Extreme Harm	Low Risk	+ 0	+ 3	+ 7	+ 12	Mod. Risk	+ 3	+ 5	+ 9	+ 14	High Risk	+ 5	+ 7	+ 12	+ 16	<p>Adjust Base Violation Level According to 3 Factors.</p> <p>1) <u>Financial Loss Caused by Violation.</u> If loss exceeds \$5k, increase the Violation Level according to loss as follows:</p> <table border="0"> <tr> <td>over \$5 k = + 2</td> <td>over \$2.5 M = + 18</td> </tr> <tr> <td>over \$10 k = + 4</td> <td>over \$7.0 M = + 20</td> </tr> <tr> <td>over \$30 k = + 6</td> <td>over \$20 M = + 22</td> </tr> <tr> <td>over \$70 k = + 8</td> <td>over \$50 M = + 24</td> </tr> <tr> <td>over \$120 k = + 10</td> <td>over \$100 M = + 26</td> </tr> <tr> <td>over \$200 k = + 12</td> <td>over \$200 M = + 28</td> </tr> <tr> <td>over \$400 k = + 14</td> <td>over \$400 M = + 30</td> </tr> <tr> <td>over \$1.0 M = + 16</td> <td></td> </tr> </table> <p>2) <u>Volume or Duration of Violation.</u> If more than one of the following applies, use only the one with the greatest point value:</p> <ul style="list-style-type: none"> More than 70k MMBtus/ 10k MWhs: + 2 More than 140k MMBtus/ 20k MWhs: + 4 More than 700k MMBtus/ 100k MWhs: + 6 More than 10 days: + 2 More than 50 days: + 4 More than 250 days: + 6 <p>3) <u>Threat to Market Transparency.</u></p> <ul style="list-style-type: none"> Increase Violation Level to 16 if conduct seriously threatened market transparency. 	over \$5 k = + 2	over \$2.5 M = + 18	over \$10 k = + 4	over \$7.0 M = + 20	over \$30 k = + 6	over \$20 M = + 22	over \$70 k = + 8	over \$50 M = + 24	over \$120 k = + 10	over \$100 M = + 26	over \$200 k = + 12	over \$200 M = + 28	over \$400 k = + 14	over \$400 M = + 30	over \$1.0 M = + 16		<p>Adjust Base Violation Level According to 2 Factors.</p> <p>1) <u>If the Violation:</u></p> <ul style="list-style-type: none"> Resulted in substantial interference with administration of justice, then: + 3 <p>2) <u>If the Violation:</u></p> <ul style="list-style-type: none"> Involved destruction, alteration, fabrication of substantial number of records, documents, or tangible objects, or Involved selection of any essential or especially probative record, document, or tangible object to destroy or alter, or Was otherwise extensive in scope, planning or preparation, then: + 2
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* Chapter 2 of FERC Penalty Guidelines, Policy Statement on Penalty Guidelines, pp. 49-56.

Factors That May Decrease Culpability Score

- Effective Compliance and Ethics Program ("ECEP"): Subtract 3 points if entity had in place at time of the violation an ECEP, as that term is defined in Chapter 1 of the FERC Penalty Guidelines, Policy Statement on Penalty Guidelines, pp. 35-37.
 - Do not, however, subtract 3 points if: (a) the entity unreasonably delayed reporting the violations to appropriate government authorities; or (b) an individual within high-level personnel of the entity, a person within high-level personnel of the unit of the entity within which the violation was committed where the unit had 200 +, or an individual with day-to-day operational responsibility or overall responsibility for the ECEP participated in, condoned, or was willfully ignorant of the violation.
 - Note: there is a rebuttable presumption that entity did not have an ECEP if high-level personnel in a small entity or personnel with substantial authority in any entity, participated in, condoned, or were willfully ignorant of violation.
- Self-reporting, Cooperation and Acceptance of Responsibility: If more than one applies, use the greatest:
 - If the entity (a) prior to an imminent threat of disclosure or government investigation; and (b) within a reasonably prompt time after becoming aware of the violation, reported the violation to the Commission, exhibited full cooperation in the investigation, and resolved the matter without need for a trial-type hearing, subtract 4 points. If the entity also clearly demonstrated recognition and affirmative acceptance of responsibility for its violation, subtract another 1 point. (subtract up to 5 points)
 - If the entity exhibited full cooperation in the investigation and resolved the matter without need for a trial-type hearing, subtract 2 points. If the entity also clearly demonstrated recognition and affirmative acceptance of responsibility, subtract another 1 point. (subtract up to 3 points)
 - If the entity resolved the matter without need for a trial-type hearing, subtract 1 point. If the entity also clearly demonstrated recognition and affirmative acceptance of responsibility for its violation, subtract another 1 point. (subtract up to 2 points)

Step 3: Determine Base Penalty

- The **Base Penalty**, which is determined according to the process in this box, is a dollar amount that will be used in Step 5 to create a minimum and maximum penalty range.
- The **Base Penalty** is determined by identifying the greater of:
 - The dollar amount listed in the Violation Level Penalty Table associated with the Violation Level from Steps 1 & 2; or
 - The pecuniary gain to the violator resulting from the violation; or
 - The pecuniary loss caused by the violator.

Minimum and Maximum Multipliers		
Culpability Sc.	Min. Multiplier	Max. Multiplier
10 +	2.00	4.00
9	1.80	3.60
8	1.60	3.20
7	1.40	2.80
6	1.20	2.40
5	1.00	2.00
4	0.80	1.60
3	0.60	1.20
2	0.40	0.80
1	0.20	0.40
0 or less	0.05	0.20

Violation Level Penalty Table

0-6	\$5,000
7	\$7,500
8	\$10,000
9	\$15,000
10	\$20,000
11	\$30,000
12	\$40,000
13	\$60,000
14	\$85,000
15	\$125,000
16	\$175,000
17	\$250,000
18	\$350,000
19	\$500,000
20	\$650,000
21	\$910,000
22	\$1,200,000
23	\$1,600,000
24	\$2,100,000
25	\$2,800,000
26	\$3,700,000
27	\$4,800,000
28	\$6,300,000
29	\$8,100,000
30	\$10,500,000
31	\$13,500,000
32	\$17,500,000
33	\$22,000,000
34	\$28,500,000
35	\$36,000,000
36	\$45,500,000
37	\$57,500,000
38+	\$72,500,000

Factors That May Increase Culpability Score

- Size of Entity and Level of Management Knowledge/Tolerance of Violation: If more than one of the following applies, use only the one with the greatest number of points:
 - Add 5 points (+ 5) if:
 - Entity had 5,000 or more employees (i.e., 5,000+) and (i) an individual within high-level personnel of the entity participated in, condoned, or was willfully ignorant of (i.e., "acted culpably regarding") the violation; or (ii) tolerance of the violation by substantial authority personnel was pervasive throughout the entity; or
 - The unit of the entity within which the violation was committed had 5,000+ and (i) an individual within high-level personnel of the unit acted culpably regarding the violation; or (ii) tolerance of the violation by substantial authority personnel was pervasive throughout such unit.
 - Add 4 points (+ 4) if:
 - Entity had 1,000+ and (i) an individual within high-level personnel acted culpably regarding the violation; or (ii) tolerance of the violation by substantial authority personnel was pervasive; or
 - The unit of the entity within which the violation was committed had 1,000+ and (i) an individual within high-level personnel of the unit acted culpably regarding the violation; or (ii) tolerance of the violation by substantial authority personnel was pervasive throughout such unit.
 - Add 3 points (+ 3) if:
 - Entity had 200+ and an individual within high-level personnel of the entity acted culpably regarding the violation; or (ii) tolerance of the violation by substantial authority personnel was pervasive; or
 - The unit of the entity within which the violation was committed had 200+ and (i) an individual within high-level personnel of the unit acted culpably regarding the violation; or (ii) tolerance of the violation by substantial authority personnel was pervasive throughout such unit.
 - Add 2 points (+ 2) if the entity had 50+ and an individual within substantial authority personnel acted culpably regarding the violation.
 - Add 1 point (+ 1) if the entity had 10+ and an individual within substantial authority personnel acted culpably regarding the violation.
- Prior History: Entity committed any part of the instant violation <10 yrs after a prior FERC adjudication of any violation, or <10 years after finding of similar misconduct by another agency: + 1 point. But add another point (+ 1) if above conduct was < 5 years after prior adjudicated violation, instead of <10 yrs after. (+ 2 points possible)
- Violation of an Order: Committing violation also violates a prior order or injunction directed at the specific entity by FERC or another govt. agency that adjudicates similar matters as FERC. (+ 2 points)
- Obstruction of Justice: Entity willfully obstructed, attempted to obstruct, or encouraged obstruction of justice during investigation or resolution of the instant violation, or entity knowingly failed to take reasonable steps to prevent such conduct. (+ 3 points)

Step 4: Determine Culpability Score**

- The universal base **Culpability Score** is 5. This number may increase or decrease depending on the applicability of the factors listed below (and further explained in accompanying boxes).
- Final **Culpability Score** (5 ± points from factors) correlates to Minimum and Maximum Multipliers.
- Factors That May Increase Culpability Score, if Applicable:
 - Size of entity and level of management knowledge/tolerance of violation. (+ up to 5 points)
 - Prior history of similar violations by the entity. (+ up to 2 points)
 - Violation of a Commission order. (+ 2 points)
 - Obstruction of justice. (+ 3 points)
- Factors That May Decrease Culpability Score, if Applicable:
 - Effective compliance and ethics program. (subtract 3 points)
 - Self-reporting, cooperation and acceptance of responsibility. (subtract up to 5 points)

** Chapter 1, Part C, of FERC Penalty Guidelines, Policy Statement on Penalty Guidelines, pp. 41-47.

Step 5: Determine the Penalty Range

Minimum Penalty = **Base Penalty** from Step 3 x **Minimum Multiplier** that corresponds with **Culpability Score**.
 Maximum Penalty = **Base Penalty** from Step 3 x **Maximum Multiplier** that corresponds with **Culpability Score**.
 Note: The penalty amount will automatically be capped at the maximum statutory level for any violation.