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FERC Changes Course Again and Suspends Civil Penalty Guidelines

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The Federal Energy Regulatory Commission (FERC) on April 15, 2010, changed course again and suspended the operation of its recently announced Policy Statement on Civil Penalty Guidelines. FERC previously had declined numerous requests to issue Penalty Guidelines. The Penalty Guidelines had been announced in a Policy Statement on March 18, 2010 and were described in an earlier Dewey & LeBoeuf Client Alert. FERC announced at that time that its staff would conduct three workshops regarding the new Guidelines. The same day its staff was conducting the third of the three workshops, FERC issued an order suspending its new Guidelines. Specifically, in a terse April 15 Order FERC stated, "The Commission has determined that the public interest would be served by affording interested entities a broader opportunity to comment on the Penalty Guidelines before issuing a final order and putting them into effect. Thus, the Commission will suspend the Policy Statement and the application of the Penalty Guidelines. The Commission considers its March 18, 2010 action as interim in this proceeding. Interested entities are invited to submit comments within 60 days of the date of this order. The Commission will assess the submitted comments and determine in a future order whether to amend the Policy Statement before adopting it and putting it into effect."

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