



FERC Approves \$4 Million Penalty for Dam Violations that Resulted in Two Deaths

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The Oswego River Project is licensed in part for recreational purposes, and Varick in particular attracts a significant number of fishermen to its waters. Because water levels can rise rapidly, giving fishermen as little as three minutes to retreat safely, Erie has implemented a Fishermen Alert System designed to warn fishermen when a substantial amount of water is about to flow over the dam. On September 28, 2010, two fishermen standing near the edge of the Varick tailrace were swept downstream amid rapidly rising water levels. One drowned and the other survived for several days before ultimately succumbing to his injuries. Commission enforcement staff concluded that Erie violated Commission regulations by, among other things, failing to repair a safety camera that monitored fishing activity in the area; failing to repair or replace flashboards used to visually alert fishermen of an increase in flow over the dam; and failing to timely sound the warning siren within a reasonable time period.

Under Part I of the Federal Power Act (FPA), the Commission may assess civil penalties not to exceed \$11,000 per violation for each day that such violation occurs or continues. Some of the alleged violations, such as failing to repair or replace flashboards, were alleged to have occurred for a year or more. The Commission possesses much greater civil penalty authority – up to \$1,000,000 per violation per day – under Part II of the FPA, which governs regulation of the wholesale power markets.

Categories

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