NERC
NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION

October 7, 2010

Ms. Kimberly Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: NERC Notice of Penalty regarding Unidentified Registered Entity, FERC Docket No. NP11-_-000

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Notice of Penalty[1] regarding an Unidentified Registered Entity (URE),[2] in accordance with the Federal Energy Regulatory Commission's (Commission or FERC) rules, regulations and orders, as well as NERC Rules of Procedure including Appendix 4C (NERC Compliance Monitoring and Enforcement Program (CMEP)).[3]

On December 5, 2008, URE self-reported its possible non-compliance with BAL-003-0[4] Requirement (R) 3 to Florida Reliability Coordinating Council, Inc. (FRCC) for operating with

[1] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards* (Order No. 672), III FERC Stats. & Regs. ¶ 31,204 (2006); *Notice of New Docket Prefix "NP" for Notices of Penalty Filed by the North American Electric Reliability Corporation*, Docket No. RM05-30-000 (February 7, 2008). *See also* 18 C.F.R. Part 39 (2010). *Mandatory Reliability Standards for the Bulk-Power System*, FERC Stats. & Regs. ¶ 31,242 (2007) (Order No. 693), *reh'g denied*, 120 FERC ¶ 61,053 (2007) (Order No. 693-A). *See* 18 C.F.R § 39.7(c)(2).

[2] On October 14, 2009, NERC submitted an Omnibus filing which addressed violations for certain registered entities including URE. On November 13, 2009, FERC issued an order stating it would not engage in further review of the violations addressed in the Omnibus Notice of Penalty.

[3] *See* 18 C.F.R § 39.7(c)(2).

[4] BAL-003-0 was enforceable from June 18, 2007 through August 28, 2008. BAL-003-0a was approved by the Commission and became enforceable on August 28, 2008 and enforceable from August 28, 2008 through May 13, 2009. BAL-003-0b.1 was approved by the Commission on May 13, 2009 and was enforceable from May 13, 2010 through May 21, 2010. BAL-003-0b was approved by the Commission on May 21, 2010 and became enforceable. The interpretation (BAL-003-0b) was filed at the Commission before the errata (BAL-003-0b.1); however, the Commission approved the errata first. Therefore, the current enforceable Standard is BAL-003-0b.1 because it contains both the errata and interpretation. The interpretation provides clarity regarding of whether a Balancing Authority is entitled to use a variable bias value as authorized by Requirement R2.2 and does not change the meaning or language of the NERC Reliability Standard and its requirements. The errata can be a misspelled word, an incorrect reference to a requirement or measure, or an error, such as a missing word, *etc.*, that, when added or

its Automatic Generation Control (AGC) switched out of Tie Line Frequency Bias (TLFB) mode on eight occasions without a determination that such operation would be adverse to the reliability of the bulk power system (BPS). On November 11, 2008, URE self-reported its possible non-compliance with CIP-004-1 R2 and R3 to FRCC for URE's failure to maintain lists of personnel with authorized cyber or authorized unescorted physical access to Critical Cyber Assets. On January 23, 2009, this Self-Report was revised from CIP-004-1 R2 and R3 to CIP-004-1 R4. On June 4, 2008, URE self-reported its possible non-compliance with FAC-003-1 R1.2.2 to FRCC for URE's failure to implement, document and track its Transmission Vegetation Management Program (TVMP) and for its failure to maintain its Clearance 2 distances as specified in URE's TVMP. On February 14, 2009, the violation was revised from FAC-003-1 R1.2.2 to FAC-003-1 R2 due to the findings at the Spot Check.[5] On December 11, 2008,[6] URE self-reported its possible non-compliance with FAC-009-1 R1 for URE's failure to establish Facility Ratings for its solely and jointly owned Facilities that are consistent with its associated Facility Ratings Methodology.

This Notice of Penalty is being filed with the Commission because FRCC and URE have entered into a Settlement Agreement to resolve all outstanding issues arising from a preliminary and non-public assessment resulting in FRCC's determination and findings of the enforceable violations[7] of BAL-003-0 R3, CIP-004-1 R4, FAC-003-1 R2, and FAC-009-1 R1.[8] According to the Settlement Agreement, URE neither admits nor denies the violations, but has agreed to the proposed penalty of two hundred fifty thousand dollars ($250,000) to be assessed to URE, in addition to other remedies and actions to mitigate the instant violations and facilitate future compliance under the terms and conditions of the Settlement Agreement.

Statement of Findings Underlying the Violations

This Notice of Penalty incorporates the findings and justifications set forth in the Settlement Agreement executed on August 10, 2010, by and between FRCC and URE, which is included as Attachment a and the Supplemental Record Information document dated March 2, 2010. The details of the findings and basis for the penalty are set forth in the Settlement Agreement and herein. This Notice of Penalty filing contains the basis for approval of the Settlement Agreement by the NERC Board of Trustees Compliance Committee (NERC BOTCC). In accordance with Section 39.7 of the Commission's regulations, 18 C.F.R. § 39.7, NERC provides the following summary table identifying each violation of a Reliability Standard resolved by the Settlement Agreement, as discussed in greater detail below.

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corrected, does not change the scope or technical content of the standard. For consistency in this filing, the original Standard, BAL-003-0, as reported in the supporting documentation is used throughout.

[5] The Settlement Agreement incorrectly states that the self-report was revised.

[6] The FAC-009-1 Self-Report was dated December 12, 2008.

[7] At the time of the Settlement Agreement, these violations were possible violations. For purposes of this document, the violations at issue are described as "violations," regardless of their procedural posture and whether they were possible, alleged, or confirmed violations.

[8] URE requested settlement discussions prior to FRCC issuing a Notice of Alleged Violation and Proposed Penalty or Sanction (NAVAPS) to URE for the violations in this Notice of Penalty.

Region	NERC Violation ID	Reliability Std.	Req. (R)	VRF	Total Penalty ($)
FRCC	FRCC200800128	BAL-003-0	3	Medium	250,000
	FRCC200800139	CIP-004-1	4	Lower[9]	
	FRCC200800080	FAC-003-1	2	High	
	FRCC200800120	FAC-009-1	1	Medium	

BAL-003-0

The purpose of Reliability Standard BAL-003-0 is to provide a consistent method for calculating the Frequency Bias component of area control error (ACE).

BAL-003-0 R3 requires that "[e]ach Balancing Authority shall operate its Automatic Generation Control (AGC) on Tie Line Frequency Bias, unless such operation is adverse to system or Interconnection reliability."

BAL-003-0 R3 has a "Medium" Violation Risk Factor (VRF). URE is subject to BAL-003-0 R3 as a Balancing Authority.

On December 5, 2008, URE submitted a Self-Report to FRCC for its possible non-compliance with BAL-003-0 R3. URE self-reported eight occurrences of non-compliance since June 18, 2007, when the Standard became enforceable. The eight occurrences were reported when URE's AGC was switched out of TLFB mode between December 29, 2007 and November 9, 2008.[10]

URE's compliance program requires that its compliance with NERC Standards be mapped and performance verified on an annual basis. URE was conducting these activities in late November 2008 when it discovered there had been eight instances when URE had switched its AGC out of TLFB mode since June 18, 2007.[11] The incidents duration ranged from 6 seconds to 44 hours and 9 minutes. The total amount of time out of TLFB mode for all eight incidents was 49 hours and 29 minutes.

After a review of its records and interviews with its dispatchers, URE was not able to determine the causes for operations in modes other than TLFB for the majority of the referenced incidents. However, URE determined that a single system operator was responsible for all but 6 minutes of the divergences from TLFB. URE interviewed another system operator who was responsible for the remaining 6 minute non-compliance on November 9, 2008 and determined that the reason for the non-compliance was because a schedule had been entered in the energy management system

[9] When NERC filed Violation Risk Factors (VRFs) it originally assigned CIP-004-1 R4.2 a "Lower" VRF. The Commission approved the VRF as filed; however, it directed NERC to submit modifications. NERC submitted the modified "Medium" VRF and on January 27, 2009, the Commission approved the modified "Medium" VRF. Therefore, the "Lower" VRF for CIP-004-1 R4.2 was in effect from June 18, 2007 until January 27, 2009 when the "Medium" VRF became effective. CIP-004-1 R4 and R4.1 have "Lower" VRFs.

[10] The Mitigation Plan incorrectly refers to the list occurrence on November 11, 2008.

[11] The Self-Report incorrectly states since June 17, 2007.

(EMS) incorrectly and was creating a false ACE reading. After the schedule was corrected, the system operator returned to TLFB mode.

Eight instances of switching to constant net interchange occurred: one instance on December 29, 2007; one instance on January 28, 2008; one instance on February 24, 2008 through February 26, 2008; one instance on April 28, 2008; two separate instances on April 29, 2008; one instance on May 8, 2008 and one instance on November 9, 2008.

FRCC determined that URE had a violation of BAL-003-0 R3 because URE failed to operate its AGC on TLFB.

FRCC determined the duration of the violation to be from December 29, 2007, the date of URE's first instance of non-compliance, through January 14, 2009, when URE completed its Mitigation Plan.

FRCC determined that the violation of BAL-003-0 R3 did not pose a serious or substantial risk to the reliability of the BPS because the majority of occurrences were less than two minutes in length. Additionally, FRCC found no evidence that the BPS was in an abnormal condition during these occurrences.

CIP-004-1

The purpose of Reliability Standard CIP-004-1 is to require that personnel having authorized cyber or authorized unescorted physical access to Critical Cyber Assets, including contractors and service vendors, have an appropriate level of personnel risk assessment (PRA), training and security awareness. Standard CIP-004 should be read as part of a group of standards numbered Standards CIP-002 through CIP-009.

CIP-004-1 R4, Access, requires that:

> The Responsible Entity[12] shall maintain list(s) of personnel with authorized cyber or authorized unescorted physical access to Critical Cyber Assets, including their specific electronic and physical access rights to Critical Cyber Assets.
>
> > R4.1. The Responsible Entity shall review the list(s) of its personnel who have such access to Critical Cyber Assets quarterly, and update the list(s) within seven calendar days of any change of personnel with such access to Critical Cyber Assets, or any change in the access rights of such personnel. The Responsible Entity shall ensure access list(s) for contractors and service vendors are properly maintained.
> >
> > R4.2. The Responsible Entity shall revoke such access to Critical Cyber Assets within 24 hours for personnel terminated for cause and within seven calendar days for personnel who no longer require such access to Critical Cyber Assets.

[12] Within the text of CIP-004-1, "Responsible Entity" shall mean Reliability Coordinator, Balancing Authority, Interchange Authority, Transmission Service Provider, Transmission Owner, Transmission Operator, Generator Owner, Generator Operator, Load Serving Entity, NERC or Regional Entities.

CIP-004-1 R4 and R4.1 each have a "Lower" VRF and R4.2 has a "Medium" VRF. URE is subject to CIP-004-1 R4 as a Balancing Authority, Generator Operator, Generator Owner, Interchange Authority, Load Serving Entity, Transmission Operator, Transmission Owner and Transmission Service Provider.

On November 11, 2008, URE submitted a Self-Report to FRCC for its possible non-compliance with CIP-004-1 R2[13] and R3.[14] URE self-reported that, during an annual self-assessment of the requirements, URE found that from July 1, 2008 to October 30, 2008, security staff without required training and PRAs had unescorted access to URE's primary Energy Control Center (ECC) and URE's back-up ECC.

The doors at URE's back-up ECC have card readers and physical keys which allow access through the physical security perimeter. URE's security staff had physical keys which allowed access through the physical security perimeter. A security guard (who had a valid PRA and the required training), tested his master key to determine if he could gain access into URE's back-up ECC and found that he was able to gain access. The security guard knew of other security guards who also had a master key and some of those security guards had not completed the training or had a PRA on file. The security guard made URE management aware of the situation.

FRCC determined that URE had a violation of CIP-004-1 R4,[15] because URE's security staff was not listed on the access list of personnel with authorized cyber or authorized unescorted physical access to Critical Cyber Assets (CCAs), including the specific electronic and physical access rights to CCAs as required. FRCC notified URE that a revised Self-Report for CIP-004-1 R4 was required. On January 23, 2009, URE submitted a revised Self-Report to FRCC.[16]

FRCC determined the duration of the violation to be from July 1, 2008, the date the Standard became enforceable, through December 13, 2008, when URE completed its Mitigation Plan.

FRCC determined that the violation of CIP-004-1 R4 did not pose a serious or substantial risk to the reliability of the BPS because the master access keys were held by existing URE security personnel with background checks, who were experienced in the physical protection of the equipment in which they were given access. The individuals with unintended master key access

[13] CIP-004-1 R2, Training**,** the Responsible Entity shall establish, maintain, and document an annual cyber security training program for personnel having authorized cyber or authorized unescorted physical access to Critical Cyber Assets, and review the program annually and update as necessary.

[14] CIP-004-1 R3, Personnel Risk Assessment**,** the Responsible Entity shall have a documented personnel risk assessment program, in accordance with federal, state, provincial, and local laws, and subject to existing collective bargaining unit agreements, for personnel having authorized cyber or authorized unescorted physical access. A personnel risk assessment shall be conducted pursuant to that program within thirty days of such personnel being granted such access.

[15] FRCC dismissed the violations of R2 and R3 on April 27, 2009. The basis for the dismissals was FRCC's rationale that the security personnel were not required to have the training and personnel risk assessments because they were not included on the list for personnel with approved access. NERC submitted the dismissals to FERC on July 21, 2009.

[16] URE submitted its revised Self-Report after it submitted its Mitigation Plan for CIP-004-1 R4 on December 22, 2008.

to the URE primary and back-up ECCs did not have the credentials necessary to log into ECC systems at either locations.

FAC-003-1

The purpose of Reliability Standard FAC-003-1 is to improve the reliability of the electric transmission systems by preventing outages from vegetation located on transmission rights-of-way (ROW) and minimizing outages from vegetation located adjacent to ROW, maintaining clearances between transmission lines and vegetation on and along transmission ROW, and reporting vegetation related outages of the transmission systems to the respective Regional Entities and NERC.

FAC-003-1 R2 requires that:

> The Transmission Owner shall create and implement an annual plan for vegetation management work to ensure the reliability of the system. The plan shall describe the methods used, such as manual clearing, mechanical clearing, herbicide treatment, or other actions. The plan should be flexible enough to adjust to changing conditions, taking into consideration anticipated growth of vegetation and all other environmental factors that may have an impact on the reliability of the transmission systems. Adjustments to the plan shall be documented as they occur. The plan should take into consideration the time required to obtain permissions or permits from landowners or regulatory authorities. Each Transmission Owner shall have systems and procedures for documenting and tracking the planned vegetation management work and ensuring that the vegetation management work was completed according to work specifications.

FAC-003-1 R2 has a "Lower" VRF. URE is subject to FAC-003-1 R2 as a Transmission Owner.

On June 4, 2008, URE submitted a Self-Report to FRCC for its non-compliance with FAC-003-1 R1.2.2.[17] Following a February 14, 2009 spot check of URE's June 2, 2008 event, discussed below, FRCC concluded that URE had determined and documented specific radial clearances to be maintained between vegetation and conductors under all rated electrical operating conditions in its TVMP documents, and therefore URE met the requirements as stated in FAC-003-1 R1.2.2. On July 15, 2009, FRCC requested a revision of URE's Self-Report to a possible non-compliance with FAC-003-1 R2, which URE submitted on September 18, 2009.

URE's Self-Report stated that one of its lines (62.15 miles in length) had relayed out on June 2, 2008 at 1354 hours. The Self-Report further stated that the outage was caused by vegetation, specifically trees growing under the conductors within the ROW. The line sagged under normal operating conditions and made contact with the trees causing the lockout to occur. The outage

[17] FAC-003-1 R1.2.2. Clearance 2 – The Transmission Owner shall determine and document specific radial clearances to be maintained between vegetation and conductors under all rated electric operating conditions. These minimum clearance distances are necessary to prevent flashover between vegetation and conductors and will vary due to such factors as altitude and operating voltage. These Transmission Owner-specific minimum clearance distances shall be no less than those set forth in the Institute of Electrical and Electronics Engineers (IEEE) Standard 516-2003 (*Guide for Maintenance Methods on Energized Power Lines*) and as specified in its Section 4.2.2.3, Minimum Air Insulation Distances without Tools in the Air Gap.

occurred on a remote area. The event was not fully examined until a helicopter was available the next day.

After URE determined that trees contacted the transmission line and caused the outage, tree crews were dispatched to the area at approximately 1000 hours on June 3, 2008.[18] URE completed its initial activities to achieve required vegetation clearances,[19] which included hand cutting vegetation and pushing vegetation over with an all-terrain vehicle (ATV) from the identified sections of the line that experienced the vegetation contact, and then returned the line to service. Throughout the outage, no customer load was lost.

On June 6, 2008, FRCC initiated a Spot Check[20] and requested impact analyses, documentation of URE's TVMP program, implementation of the TVMP program and mitigating actions related to June 2, 2008 event. On June 30, 2008, URE provided a spreadsheet summary of a three year line outage history for the line for the 36 months prior to, and including, the event on June 2, 2008. The report indicated that the line had momentary unscheduled interruptions[21] that did not result in sustained outages on June 27, 2006 and May 28, 2008. The June 27, 2006 event was identified by URE as being caused by "lightning" and the May 28, 2008 event was identified by URE as having an "unknown" cause. URE identified the June 2, 2008 event as having a "line-tree-preventable" cause.

The June 30, 2008 data response also stated that maintenance of the line is maintained on a four-year cycle with the exception of a certain property, which is maintained on a three-year cycle since the inception of URE's TVMP in 2002. This property had been hand-cut in November 2003, April 2006 and on June 2, 2008.

On June 13, 2008, FRCC requested additional information on line ratings, environmental factors at the time of the event, line monitoring documentation and evidence of contingency analysis studies. On August 1, 2008, FRCC requested vegetation trimming history of the line, details of historical aerial inspections, details of photographic evidence previously submitted by URE and detailed questions pertaining to the URE TVMP.

After receiving URE's response, FRCC determined that during a December 2007 aerial inspection, URE became aware that vegetation maintenance would be needed prior to the 2009 schedule and scheduled maintenance crews to perform the work in March 2008.

URE stated that it had performed aerial patrols in April 2008. No inspection findings had been documented this area because crews were already working on a segment of the property and were expected to finish. Crews were instructed by the URE's forester to cease work on May 15,

[18] The Settlement Agreement, which quotes from the self-report, incorrectly states that the tree crews were dispatched on June 3, 2004.
[19] The property is an environmentally protected area and original construction permit restrictions prevented URE from using herbicides to maintain vegetation.
[20] The FRCC Spot Check team consisted of FRCC Compliance personnel and a NERC Regional Compliance Program Coordinator.
[21] A momentary unscheduled interruption not resulting in a sustained outage, and not caused by a vegetation contact, is not considered a violation of NERC Reliability Standards.

2008. The forester had prematurely released the crews because the property had been cleared within the same historical time frame on a three-year cycle without comprising the reliability of the line. URE further stated that the forester made the decision to release the crews without inspecting the line from the ground and acknowledges that had he inspected the line from the ground he would not have released the crews.

On August 14, 2008, FRCC asked URE to estimate dates of when vegetation entered Clearance 2 minimum distance (5.5 feet) between energized conductors at the point of contact for the June 2, 2008 event.[22] URE hired an outside environmental consultant to estimate dates of when the vegetation entered the minimum distance and provided the consultant's assessment. The assessment stated that the consultant's model estimated that the trees reached 15 feet in height in May 2007 and came within 5.5 feet of the conductor in March 2008 when the tree height exceeded 24 feet.

FRCC determined that URE had a violation of FAC-003-1 R2 because (1) URE failed to effectively implement a TVMP that was flexible enough to adjust to changing conditions, taking into consideration anticipated growth of vegetation based on current growth projections and all other environmental factors that may cause an impact on the reliability of the transmission systems; (2) URE did not have adequate systems and procedures for documenting and tracking the planned vegetation management work and ensuring that the vegetation management work was completed according to work specifications; and (3) Clearance 2 distances of 5.5 feet as specified in URE's TVMP were not maintained.

FRCC determined the duration of the violation to be from March 31, 2008, the date the willow tree encroached the Clearance 2 distance, through March 31, 2010, when URE completed its Mitigation Plan.[23]

FRCC determined that the violation of FAC-003-1 R2 did not pose a serious or substantial risk to the reliability of the BPS because the load on the line was switched to another line (standard N-1 plan). Also there were no Interconnection Reliability Operating Limit (IROL) violations, generation re-dispatch, reduction of generation reserves, system-wide disturbances nor interruption in service to any customers as a result of the event. Additionally, voltage readings in the area of the vegetation line contact following the event were within FRCC guidelines.[24]

FAC-009-1

The purpose of Reliability Standard FAC-009-1 is to ensure that Facility Ratings used in the reliable planning and operation of the BPS are determined based on an established methodology or methodologies.

[22] As described in URE TVMP *and NERC Standard FAC-003-1 R1.2.2*, the Transmission Owner shall determine and document specific radial clearances to be maintained between vegetation and conductors under all rated electrical operating conditions.
[23] The Settlement Agreement incorrectly states that the duration of FAC-003-1 R2 was from March 31, 2007 to June 6, 2008.
[24] The guideline is contained within the FRCC Handbook, document named "Voltage and Reactive Control," dated September 8, 2005.

FAC-009-1 R1 requires that: "The Transmission Owner and Generator Owner shall establish Facility Ratings for its solely and jointly owned Facilities that are consistent with the associated Facility Ratings Methodology."

FAC-009-1 R1 has a "Medium" VRF. URE is subject to FAC-009-1 as a Transmission Owner and Generator Owner.

On December 11, 2008, URE submitted a Self-Report dated December 12, 2008 for its possible non-compliance with FAC-009-1 R1. URE's Self-Report stated that during a review of its line ratings it discovered the line rating for one of its lines, did not include the existing wave trap in the analysis of the transmission line rating, as required by the FAC-008 methodology.[25] Based on this discovery, the line was re-rated, resulting in a capability reduction.

FRCC determined that URE had a violation of FAC-009-1 R1 because URE failed to establish Facility Ratings for its solely and jointly owned Facilities that are consistent with its associated Facility Ratings Methodology.

FRCC determined the duration of the violation will be from June 18, 2007, the date the Standard became enforceable, through December 31, 2010, when URE is scheduled to complete its Mitigation Plan.

FRCC determined that the violation of FAC-009-1 R1 did not pose a serious or substantial risk to the reliability of the BPS because wave traps are used for the creation of impedance to allow for the trapping of high frequency communications (line carrier) signals sent on the line from the remote substation, which then divert the signal to the telecommunications panel in the substation control room to allow for carrier line communication. A wave trap is tuned to block the communications signal from passing through them, onto the substation bus, through transformers and onto other transmission lines. In the case of overloading the wave trap, overload/loss of the wave trap would be signaled to the main control center which would result in a site visit by company technicians. Other devices would have also protected substation equipment in case of an overload of the circuit (protective relays, current and voltage sensing devices). In addition, there were no disturbances or interruption in service to any customers as a result of this violation.

Regional Entity's Basis for Penalty

According to the Settlement Agreement, FRCC has assessed a penalty of two hundred fifty thousand dollars ($250,000) for the referenced violations. In reaching this determination, FRCC considered the following factors:

1. these violations constituted URE's first occurrence of violations of the subject NERC Reliability Standards and were not considered as aggravating factors;[26]

[25] *See* n.39.

[26] These violations were URE's first occurrence of violations of NERC Reliability Standards. As a result of URE's discovery of the violations of CIP-004-1 R4, URE's sister company discovered it had a similar violation of CIP-004-1 R4 through URE's self-assessment. While FRCC did review a summary of the facts of URE's sister company violation; it did not consider the violation to be an aggravating factor in URE's penalty determination. Additionally, this Notice of Penalty was done prior to the Commission's August 27, 2010 Guidance Order being issued.

2. there were eight instances with respect to the violation of BAL-003-0 R3;
3. URE self-reported three of the four violations,[27] although the CIP-004-1 R4 Self-Report was revised at FRCC's request;
4. URE was cooperative throughout the compliance enforcement process;
5. URE had an adequate Internal Compliance Program (ICP) which was a mitigating factor;[28]
6. there was no evidence of any attempt to conceal a violation nor evidence of intent to do so; and
7. the violations did not pose a serious or substantial risk to the BPS, as discussed above.

After consideration of the above factors, FRCC determined that, in this instance, the penalty amount of two hundred fifty thousand dollars ($250,000) is appropriate and bears a reasonable relation to the seriousness and duration of the violations.

[27] Despite that URE submitted a Self-Report for FAC-003-1 R1.2.2, no credit was considered for the FAC-003-1 R2 violation as it was identified after a spot check and the original Self-Report was submitted after an event.

[28] FRCC determined that URE has an established ICP that includes the following six features:

1. According to URE, it has sufficient resources for the operation of its ICP, and implementation objectives are evaluated regularly to determine the necessary budget for implementation resources.
2. Executive and senior management are key participants in the corporate level and individual business unit oversight of the compliance program. URE has named and staffed a compliance program oversight position that has direct access to the Chairman/CEO and Board of Directors. URE's Regulatory Affairs department reports within the Legal Department to ensure independence from the operations and engineering departments that must comply with NERC Standards.
3. URE's compliance program is disseminated to all organizations within URE that must comply with the NERC Reliability Standards. Officers of organizations subject to compliance with NERC Reliability Standards comprise URE's ERO Steering Committee. The URE officers of the URE ERO Steering Committee appoint members of its staff to participate on a working group. The working group is an internal group that is comprised of management, individual contributors and subject matter experts that contribute to NERC-related compliance activities at URE.
4. During the first and second quarters of 2009, employees in departments that must comply with NERC Reliability Standards received online training about NERC Standards, NERC Enforcement, and NERC Compliance at URE and employee roles and responsibilities. System Operators receive ongoing training to enhance their operating skills and to comply with NERC Standards.
5. Disciplinary action is administered in accordance with URE's HR procedures, so that when an employee willfully violates any of URE's procedures or policies, management has the discretion to administer disciplinary action up to and including termination.
6. A key element of URE's compliance program is compliance mapping of each requirement of each applicable standard annually. Compliance mapping involves documenting the internal procedures that URE relies on for compliance with each requirement, identifying the responsible manager and subject matter experts, documenting where the records providing evidence of compliance are stored and reviewing those records.

Status of Mitigation Plans[29]

BAL-003-0 R3

URE's Mitigation Plan to address its violation of BAL-003-0 R3 was submitted to FRCC on January 8, 2009,[30] which was rejected by FRCC because of typographical errors and missing attachments. URE resubmitted a revised Mitigation Plan on January 13, 2009 with a proposed completion date of January 14, 2009.[31] This Mitigation Plan was accepted by FRCC on January 18, 2009 and approved by NERC on March 3, 2009. The Mitigation Plan for this violation is designated as MIT-07-1398 and was submitted as non-public information to FERC on March 9, 2009 in accordance with FERC orders.

URE's Mitigation Plan stated that URE had implemented, or required URE to implement, the below listed five actions to prevent the operation of the URE System in modes other than TLFB unless conditions warrant, as specified by the Standard.

1. On October 9, 2008 (prior to the discovery of the violation), URE terminated the system operator responsible for all but 6 minutes of the non-compliance with this Standard.
2. URE created a directive, which was drafted and provided to all URE ECC Dispatchers, Supervisors and Management. This standing order directs the dispatchers to not operate out of TLFB mode unless system conditions require it. It also gives examples of when to take the system out of TLFB mode and directs dispatchers to log all instances of when the system is not in TLFB mode and when the system returns to TLFB mode. All required personnel must electronically verify that they have read and understood the directive. This action was implemented on December 5, 2008.
3. URE ECC supervisors made two presentations on the requirement to operate the system in TLFB mode during the 2008 fourth Quarter Dispatcher Meeting. These presentations stressed the importance of operating the system in TLFB mode. FRCC reviewed URE's meeting agenda document, and two PowerPoint presentations. This action was implemented on December 9, 2008.
4. The URE System Control and Data Acquisition (SCADA) computer overview display was altered so that when the system is not in TLFB mode a visual notification will appear and notify dispatchers and the supervisor on duty. If the system is in Flat Frequency or Flat Tie Line mode, the displays will show Constant Frequency Control (CFC) or Constant Net Interchange Control (CNIC). The visual flags will increase awareness that the system is not in TLFB mode. This action was implemented on December 10, 2008 during the EMS database update.
5. The Generation Unit Status and Area Status displays will be altered in the same manner as the System Overview display. When the system is being operated out of

[29] *See* 18 C.F.R § 39.7(d)(7).
[30] FRCC's Verification of Completion incorrectly states that the Mitigation Plan was submitted on January 10, 2009.
[31] The revised Mitigation Plan is dated January 8, 2009.

TLFB mode, the Generation Unit Status and Area Status screen displays will provide a visual notice (flags for CFC or CNIC). These visual flags will increase awareness if the system is not in TLFB. This action was implemented on January 14, 2009.

6. The EMS will be programmed to send an audible and visual Generation, Transmission and SCADA alarm to the Generation System Operator and Transmission System Operator anytime the URE is not operating TLFB mode. This action was implemented on January 14, 2009.

On February 26, 2009, URE certified that the above Mitigation Plan requirements were completed on January 14, 2009.[32] As evidence of completion of its Mitigation Plan, URE submitted the following:

1. URE Standing Order and an associated report from URE's system which lists signatures when URE's Emergency Control Center staff completed the required reading of the Order;
2. Two URE SCADA computer overview displays depicting visual announcements that the system is operating out of TLFB;
3. One URE SCADA computer overview display depicting a visual notification that the system is operating in TLFB;
4. Two Generation Unit Status displays depicting visual notification s that the system is operating out of TLFB;
5. One Generation Unit Status display depicting a visual notification that the system is operating in TLFB;
6. Two Area Status displays depicting visual notifications that the system is operating out of TLFB;
7. One Area Status display depicting a visual notification that the system is operating in TLFB; and
8. URE's 2008 4th Quarter dispatcher meeting agenda document and two PowerPoint presentations.

On March 7, 2009, after reviewing URE's submitted evidence, FRCC verified that URE's Mitigation Plan was completed on January 14, 2009 and that URE was in compliance with BAL-003-0 R3.

CIP-004-1 R4

URE's Mitigation Plan to address its violation of CIP-004-1 R4 was submitted to FRCC on December 22, 2008, stating that it had been completed on December 13, 2008.[33] This Mitigation Plan was accepted by FRCC on January 31, 2009 and approved by NERC on March 3, 2009.

[32] The Certification of Completion was submitted to FRCC on March 2, 2009. The Verification of Completion incorrectly states that the Certification of Completion was submitted on March 7, 2009.
[33] Section D2 of the Mitigation Plan incorrectly states that the Mitigation Plan had been fully implemented on December 31, 2008.

The Mitigation Plan for this violation is designated as MIT-08-1412 and was submitted as non-public information to FERC on March 9, 2009 in accordance with FERC orders.

URE's Mitigation Plan stated that URE had implemented the below listed actions:

1. URE immediately replaced the existing key cores from ECC access points. In addition, URE removed the grand master key hierarchy and replaced it with an operating key which provides single source key access. This action was completed October 29, 2008;
2. URE reviewed engineering drawings for all URE ECCs and respective back-ups to identify physical access points and ensure single source key access into the Physical Security Perimeter. This action was completed October 27, 2008;
3. URE developed an interface agreement to include roles and responsibilities for lock and key control. This action was completed November 26, 2008; and
4. URE revised its current key manual to reflect the grand master key hierarchy control measures implemented by URE. This action was completed December 13, 2008.

On January 23, 2009, URE certified that the above Mitigation Plan requirements were completed on December 13, 2008. As evidence of completion of its Mitigation Plan, the FRCC audit team reviewed the evidence provided by URE and verified completion of mitigation plan for CIP-004-1 R4. The evidence was reviewed as part of the 2009 Spot check of the CIP standards and the evidence was retained in a tyvex sealed envelope by URE for safe keeping due to the sensitiveness of the data reviewed. The evidence reviewed is located on a secure USB jump drive and retained on the URE ECC premises for safe keeping. Generally, the evidence included the Critical Cyber Assets list, Quarterly Entitlement Reviews for employees and contractors, training documentation, list of access revocations, and list of personnel with Critical Cyber Assets access.

After reviewing URE's submitted evidence during URE's 2009 onsite CIP Spot Check on July 10, 2009, FRCC verified that URE's Mitigation Plan was completed on December 13, 2008 and on September 18, 2009 FRCC notified URE that it was in compliance with CIP-004-1 R4.

FAC-003-1 R2

URE's Mitigation Plan to address its violation of FAC-003-1 R2 was submitted to FRCC on July 1, 2008. After URE determined that the violation was of R2, not R1, URE submitted a revised Mitigation Plan on September 18, 2009, with a proposed completion date of March 31, 2010. This Mitigation Plan was accepted by FRCC on September 30, 2009 and approved by NERC on October 7, 2009. The Mitigation Plan for this violation is designated as MIT-08-2016 and was submitted as non-public information to FERC on October 12, 2009 in accordance with FERC orders.

URE's Mitigation Plan required URE to implement the following actions:[34]

[34] Additional requirements were added to the original Mitigation Plan in March 2009 to document agreements reached during Settlement Agreement discussions. The Mitigation Plan was not resubmitted as a revised document, but it does show the additions in a different font type.

1. completely remove encroaching vegetation and clear the easement to full width of the URE ROW as per the vegetation removal permit. The crews will cut the entire length of ROW to the full 100-foot width. This action was completed June 9, 2008;
2. perform an aerial patrol of all lines greater than 200 kV ahead of normal patrol schedules and documented any clearance issues. During these patrols, URE will also assess cycle lengths as stated in URE's TVMP and ensure current cycles for specific lines or segments are short enough to provide the desired reliability results to meet the requirements of FAC-003-1. Any specific lines or segments that require a shorter cycle length due to environmental or other restrictive factors will be documented and scheduled according to the conditions found in the field to ensure reliability is not compromised during clearing cycles. This action was completed June 17, 2008;
3. perform reactive trimming or removal on all sites requiring mitigation that were found during the aerial inspections. This action was completed July 30, 2008;
4. make revisions to the annual work plan to change cycle length to be inspected from the ground annually in the month of May (versus the current three-year schedule) to ensure Clearance 2 distances are maintained to ensure reliability of the line. The property will also be patrolled on the normal URE aerial patrol cycle. This action was completed July 25, 2008;
5. make revisions to the annual work plan according to the results from the aerial inspection and cycle assessment. Revisions are to include requirements that property be manually cleared annually in the month of February utilizing machinery and/or hand-cutting techniques. This action was completed July 25, 2008;
6. obtain permission from the Florida Fish and Wildlife Conservation Commission (FFWCC) to use herbicides to control vegetation. Permission was granted on September 8, 2008 to apply the herbicide Triclopyr to vegetation. This action was completed September 8, 2008;
7. apply the newly permitted herbicide to the ROW. This action was completed in September 2008;
8. hire a consultant to investigate why the trees experienced unexpected growth in 2006 and 2007. This action was completed October 6, 2008;
9. change ECC notification protocols to include notifying foresters when momentary or sustained outages occur on URE's transmission lines. FRCC reviewed URE's procedure outlining URE's ECC notification protocols to foresters. This action was completed in November 2008;
10. implement aerial patrol guidelines to advise foresters performing aerial patrols of the conditions and topography that may lead to depth perception issues and which might affect their ability to accurately judge the clearances between vegetation and conductors during aerial patrols. URE trained all foresters in the guidelines. FRCC reviewed URE's guidelines dated February 12, 2009. This document details "flying in the opposite direction of the previous aerial inspection" which, according to URE, will assist in resolving any depth perception issues. This action was completed February 12, 2009;

11. implement a peer review process during 2009 aerial patrols to improve the consistency among foresters. This action was completed March 3, 2009;
12. the forester responsible for the vegetation maintenance of the area involved in the June 2, 2008 vegetation contact event performed a self-assessment of the mistakes made and breaches of the URE TVMP process controls which led to the required Clearance 2 distances being breached and resulted in the sustained outage. The Forester will prepare a presentation to communicate the findings to its staff and to Regional Compliance Enforcement staff. This action was completed March 16, 2009;
13. change URE's TVMP to require ground patrols of all 200 kV and above transmission lines annually. This action was completed in March 2009;
14. make revisions to the annual plan. This action was completed December 31, 2009; and
15. implement the TVMP software application. According to URE, the TVMP has been previously managed as a manual process. URE will implement the software application and will provide foresters and crews responsible for clearing ROW of vegetation handheld computers to allow them to create work orders during patrols, give them access to line, circuit and span data as well as the ability to utilize GPS data to describe areas in need of attention, track progress of the annual work plan, track progress on emergent and reactive work identified on patrols, produce work status reports and archive electronic records to confirm compliance. Foresters will have immediate access to a software application in the field and in the office. This will facilitate work management processes and will provide more rigorous verification that all work has been performed in accordance with URE specifications. The estimated cost of the purchase and implementation of this system is a one-time cost of $1,000,000 across URE and its affiliate. This action was completed March 31, 2010.

On July 20, 2010, URE certified that the above Mitigation Plan requirements were completed on March 31, 2010.

On July 20, 2010, after reviewing URE's submitted evidence, FRCC verified that URE's Mitigation Plan was completed on March 31, 2010 and that URE was in compliance with FAC-003-1 R2.

FAC-009-1 R1

URE's Mitigation Plan to address its violation of FAC-009-1 R1 was submitted to FRCC on January 23, 2009,[35] with a proposed completion date of December 31, 2010. This Mitigation Plan was accepted by FRCC on January 24, 2009 and approved by NERC on March 3, 2009. The Mitigation Plan for this violation is designated as MIT-07-1398 and was submitted as non-public information to FERC on March 9, 2009 in accordance with FERC orders.

URE's Mitigation Plan required URE to implement the following actions:

[35] The Mitigation Plan is incorrectly dated January 23, 2008 and signed on January 8, 2008.

1. reduce the rating of a certain line due to the discovery of a wave trap rating actually being the limiting rating on the line;
2. verify the generation and transmission Facility Ratings of its transmission system facilities. The review will consist of the following methods to verify equipment and ratings within a given circuit: review of engineering documentation, review of planning documentation, review of entries and field visits to verify equipment ratings as well as system configuration. The transmission milestones will be completed by December 31, 2010 and the generation milestones will be completed by September 30, 2010; and
3. review URE's design, construction, maintenance and operation procedures to ensure that roles, responsibilities, data flows and controls are adequately addressed to ensure that configuration control of the generation and transmission facilities is maintained after verification is complete. URE will review and revise business practices and facility procedures to ensure necessary ratings configuration controls exist in Generating Operations, Transmission Planning, Transmission Engineering, Transmission Construction, Transmission Maintenance and Transmission Operations areas.

URE submitted the following evidence of its completed milestones to date:

1. URE-001- April 15, 2009 e-mail from URE to FRCC Compliance Staff detailing the line rating changes made on its system including the self-reported line. This document demonstrates that URE rerated this line (among others) to include the existing wave trap in the analysis of the transmission line rating;
2. URE ratings list sorted by line segment and depicts the system limiting element. Limiting elements were confirmed and rating changes were implemented if needed;
3. URE ratings list sorted by line segment and depicts the system limiting element. Limiting elements were confirmed and rating changes were implemented if needed. Specifically, three lines on the system were rerated to reflect the newly identified most limiting element on the line, and that element was listed and ratings changes made.
4. URE ratings list sorted by line segment and depicts the system limiting element. Limiting elements were confirmed and rating changes were implemented if needed;
5. URE ratings list sorted by line segment and depicts the system limiting element. Limiting elements were confirmed and rating changes were implemented if needed;
6. URE ratings list sectioned by Mitigation Plan milestone dates. The list is sorted by generating plant and depicts the ratings of plant units and equipment. The document also lists the overall Facility Ratings;
7. URE procedure to maintain Facility Ratings configuration, control, and implement a method for compiling and maintaining data in a central location; and
8. URE procedure developed to maintain Facility Ratings configuration, control, and implement a method for compiling and maintaining data in a central location.

URE is on schedule to complete its Mitigation Plan by the approved December 31, 2010 completion date. FRCC will track URE's progress, obtain Certification of Completion when available and verify that URE had fully mitigated the instant non-compliance.

Statement Describing the Proposed Penalty, Sanction or Enforcement Action Imposed[36]

Basis for Determination

Taking into consideration the Commission's direction in Order No. 693, the NERC Sanction Guidelines and the Commission's July 3, 2008 and October 26, 2009 Guidance Orders,[37] the NERC BOTCC reviewed the Settlement Agreement and supporting documentation on April 12, 2010. The NERC BOTCC approved the Settlement Agreement, including FRCC's imposition of a financial penalty, assessing a penalty of two hundred fifty thousand dollars ($250,000) against URE and other actions to facilitate future compliance required under the terms and conditions of the Settlement Agreement. In approving the Settlement Agreement, the NERC BOTCC reviewed the applicable requirements of the Commission-approved Reliability Standards and the underlying facts and circumstances of the violations at issue.

In reaching this determination, the NERC BOTCC considered the following factors:

1. these violations constituted URE's first occurrence of violations of the subject NERC Reliability Standards;
2. there were eight instances of the violation of BAL-003-0 R3;
3. URE self-reported three of the four violations, although the CIP-004-1 R4 Self-Reports was revised at FRCC's request. As discussed above, FRCC did not categorize the FAC-003-1 R2 violation as being self-reported;
4. FRCC reported URE was cooperative throughout the compliance enforcement process;
5. FRCC reported that URE had an adequate ICP, as discussed above;
6. there was no evidence of any attempt to conceal a violation nor evidence of intent to do so;
7. FRCC determined that the violations did not pose a serious or substantial risk to the BPS, as discussed above.

For the foregoing reasons, the NERC BOTCC approves the Settlement Agreement and believes that the proposed penalty of two hundred fifty thousand dollars ($250,000) is appropriate for the violations and circumstances at issue, and is consistent with NERC's goal to promote and ensure reliability of the BPS.

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[36] *See* 18 C.F.R § 39.7(d)(4).

[37] *North American Electric Reliability Corporation*, "Guidance Order on Reliability Notices of Penalty," 124 FERC ¶ 61,015 (2008); *North American Electric Reliability Corporation*, "Further Guidance Order on Reliability Notices of Penalty," 129 FERC ¶ 61,069 (2009). *See also North American Electric Reliability Corporation*, "Notice of No Further Review and Guidance Order," 132 FERC ¶ 61,182 (2010).

Pursuant to Order No. 693, the penalty will be effective upon expiration of the 30 day period following the filing of this Notice of Penalty with FERC, or, if FERC decides to review the penalty, upon final determination by FERC.

Request for Confidential Treatment

Information in and certain attachments to the instant Notice of Penalty include privileged and confidential information as defined by the Commission's regulations at 18 C.F.R. Part 388 and orders, as well as NERC Rules of Procedure including the NERC CMEP Appendix 4C. Specifically, this includes non-public information related to certain Reliability Standard violations, certain Regional Entity investigative files, Registered Entity sensitive business and confidential information exempt from the mandatory public disclosure requirements of the Freedom of Information Act, 5 U.S.C. 552, and should be withheld from public disclosure.

In accordance with the Commission's Rules of Practice and Procedure, 18 C.F.R. § 388.112, a non-public version of the information redacted from the public filing is being provided under separate cover.

Because certain of the attached documents are deemed "confidential" by NERC, Registered Entities and Regional Entities, NERC requests that the confidential, non-public information be provided special treatment in accordance with the above regulation.

Attachments to be Included as Part of this Notice of Penalty

The attachments to be included as part of this Notice of Penalty are the following documents and material:

a) Settlement Agreement by and between FRCC and URE executed August 10, 2010, included as Attachment a;

b) Record documents for the violation of BAL-003-0 R3, included as Attachment b:
   1. URE's Self-Report dated December 5, 2008;
   2. URE's Mitigation Plan MIT-07-1398 submitted January 13, 2009;
   3. URE's Certification of Completion of the Mitigation Plan dated February 26, 2009;
   4. FRCC's Verification of Completion of the Mitigation Plan dated March 7, 2009;

c) Record documents for the violation of CIP-004-1 R4, included as Attachment c:
   1. URE's Self-Report dated November 11, 2008 and revised January 23, 2009;
   2. URE's Mitigation Plan MIT-08-1412 submitted December 22, 2008;
   3. URE's Certification of Completion of the Mitigation Plan dated January 23, 2009;
   4. FRCC's Verification of Completion of the Mitigation Plan dated September 18, 2009;

d) Record documents for the violation of FAC-003-1 R2, included as Attachment d:
   1. URE's Self-Report dated June 4, 2008;
   2. URE's Mitigation Plan MIT-08-2016 submitted September 18, 2009;
   3. URE's Certification of Completion of the Mitigation Plan dated July 20, 2010;
   4. FRCC's Verification of Completion of the Mitigation Plan dated July 20, 2010;

e) Record documents for the violation of FAC-009-1 R1, included as Attachment e:
   1. URE's Self-Report dated December 12, 2008;
   2. URE's Mitigation Plan MIT-07-1396 submitted January 23, 2009;

A Form of Notice Suitable for Publication[38]

A copy of a notice suitable for publication is included in Attachment f.

[38] *See* 18 C.F.R § 39.7(d)(6).

Notices and Communications

Notices and communications with respect to this filing may be addressed to the following:

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*Persons to be included on the Commission's service list are indicated with an asterisk. NERC requests waiver of the Commission's rules and regulations to permit the inclusion of more than two people on the service list.

Conclusion

NERC respectfully requests that the Commission accept this Notice of Penalty as compliant with its rules, regulations and orders.

Respectfully submitted,

/s/ *Rebecca J. Michael*

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Attachments