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NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

December 22, 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<sup>1</sup> regarding Unidentified Registered Entity (URE), NERC Registry ID NCRXXXXX, 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)).<sup>2</sup>

On March 13, 2008, URE self-reported non-compliance with BAL-005-0<sup>3</sup> Requirement (R) 17 because it had not performed an annual check and calibration of the frequency devices in its Control Center. On September 22, 2008, URE self-reported<sup>4</sup> non-compliance with CIP-004-1 R3 because three URE personnel who had authorized cyber or authorized unescorted physical access to Critical Cyber Assets as of July 1, 2008 did not have Personnel Risk Assessments completed within 30 days of obtaining access, and non-compliance with CIP-004-1 R4 because URE did not track and maintain lists of its employees' access to Critical Cyber Assets as

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<sup>1</sup> *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).

<sup>2</sup> See 18 C.F.R. § 39.7(c)(2).

<sup>3</sup> BAL-005-0 was enforceable from June 18, 2007 through August 27, 2008. BAL-005-0b was approved by the Commission and became enforceable on August 28, 2008. BAL-005-0.1b is the current enforceable Standard as of May 13, 2009. The subsequent interpretations provide clarity regarding the responsibilities of a registered entity and do not change the meaning or language of the original NERC Reliability Standard and its requirements. For consistency in this filing, the original NERC Reliability Standard, BAL-005-0, is used throughout.

<sup>4</sup> The self-report also included a reference to a CIP-004-1 R2 violation; however, this was retracted by URE prior to WECC's review of the self-report. WECC did not have a concern with URE's compliance with R2 and accepted URE's retraction.

required by the NERC Reliability Standard (Standard). On April 15, 2008, URE self-reported non-compliance with PRC-005-1 R2 for its failure to test station batteries according to its Protection Systems Maintenance and Testing Program. During an on-site Compliance Audit conducted from June 2, 2008 through June 6, 2008 (Audit), WECC identified a second instance of non-compliance with PRC-005-1 R2 for URE's failure to provide WECC documentation of its Protection System maintenance and testing program within 30 days, as required by the Standard.

This Notice of Penalty is being filed with the Commission because WECC and URE have entered into a Settlement Agreement to resolve all outstanding issues arising from a preliminary and non-public assessment resulting in WECC's determination and findings of the enforceable violations<sup>5</sup> of BAL-005-0, CIP-004-1, and PRC-005-1.<sup>6</sup> According to the Settlement Agreement, URE agrees and stipulates to the violations, and has agreed to the proposed penalty of fifty five thousand dollars (\$55,000) 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. Accordingly, the violations identified as NERC Violation Tracking Identification Numbers WECC200800664, WECC200801146, WECC200801147, WECC200801403, and WECC200801404, are being filed in accordance with the NERC Rules of Procedure and the CMEP.

### **Statement of Findings Underlying the Violations**

This Notice of Penalty incorporates the findings and justifications set forth in the Settlement Agreement executed on February 4, 2010, by and between WECC and URE, which is included as Attachment a. 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 following.

Region	Registered Entity	NOC ID	NERC Violation ID	Reliability Std.	Req. (R)	VRF	Total Penalty (\$)
WECC	Unidentified	NOC-489	WECC200800664	BAL-005-0	17	Medium <sup>7</sup>	55,000

<sup>5</sup> At the time of the Settlement Agreement, these violations were alleged 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.

<sup>6</sup> WECC issued a Notice of Alleged Violation and Proposed Penalty or Sanction for the violations in this Notice on June 16, 2009.

<sup>7</sup> When NERC filed Violation Risk Factors (VRFs), NERC originally assigned a "Lower" VRF to BAL-005-0 R17. The Commission approved the VRF as filed, but directed modification. On December 17, 2008, NERC filed the modified "Medium" VRF for BAL-005-0 R17 for approval. On February 6, 2008, the Commission issued an Order approving the modified VRF. Therefore, the "Lower" VRF was in effect from June 18, 2007, until February 6, 2008, and the "Medium" VRF for BAL-005-0 R17 has been in effect since February 6, 2008.

	Registered Entity		WECC200801146	CIP-004-1	3	Medium <sup>8</sup>	
			WECC200801147	CIP-004-1	4	Medium <sup>9</sup>	
			WECC200801403	PRC-005-1	2	High <sup>10</sup>	
			WECC200801404	PRC-005-1	2	High <sup>11</sup>	

BAL-005-0

The purpose of BAL-005-0 is “This standard establishes requirements for Balancing Authority Automatic Generation Control (AGC) necessary to calculate Area Control Error (ACE) and to routinely deploy the Regulating Reserve. The standard also ensures that all facilities and load electrically synchronized to the Interconnection are included within the metered boundary of a Balancing Area so that balancing of resources and demand can be achieved.”

BAL-005-0 R17 requires that:

Each Balancing Authority shall at least annually check and calibrate its time error and frequency devices against a common reference. The Balancing Authority shall adhere to the minimum values for measuring devices as listed below:

<u>Device</u>	<u>Accuracy</u>
Digital frequency transducer	≤ 0.001 Hz
MW, MVAR, and voltage transducer	≤ 0.25 % of full scale
Remote terminal unit	≤ 0.25 % of full scale
Potential transformer	≤ 0.30 % of full scale
Current transformer	≤ 0.50 % of full scale.

BAL-005-0 R17 has a “Medium” Violation Risk Factor (VRF).

On March 13, 2008, URE self-reported its possible non-compliance with BAL-005-0b R17 that it discovered on February 29, 2008 during an internal review. URE reported that it had not performed an annual check and calibration of the frequency devices in its Control Center within the required timeframe. URE should have performed the annual check and calibration of its

<sup>8</sup> When NERC filed VRFs, NERC originally assigned a “Lower” VRF to CIP-004-1 R3. The Commission approved the VRF as filed, but directed modification. On June 27, 2008, NERC filed the modified “Medium” VRF for CIP-004-1 R3 for approval. On January 27, 2009, the Commission issued an Order approving the modified VRF.

Therefore, the “Lower” VRF was in effect from June 18, 2007, until January 27, 2009, and the “Medium” VRF for CIP-004-1 R3 has been in effect since January 27, 2009. CIP-004-1 R3.1 and R3.2 each have a “Lower” VRF.

<sup>9</sup> When NERC filed VRFs, NERC originally assigned a “Lower” VRF to CIP-004-1 R4.2. The Commission approved the VRF as filed, but directed modification. On June 27, 2008, NERC filed the modified “Medium” VRF for CIP-004-1 R4.2 for approval. On January 27, 2009, the Commission issued an Order approving the modified VRF. Therefore, the “Lower” VRF was in effect from June 18, 2007, until January 27, 2009, and the “Medium” VRF for CIP-004-1 R4.2 has been in effect since January 27, 2009. CIP-004-1 R4 and R4.1 each have a “Lower” VRF and R4.2 has a “Medium” VRF. WECC determined that a “Medium” VRF was appropriate for the violation.

<sup>10</sup> PRC-005-1 R2 has a “Lower” VRF; R2.1 and R2.2 each have a “High” VRF. WECC determined that a “High” VRF was appropriate for the violations.

<sup>11</sup> *Id.*

frequency devices on December 6, 2007, but did not complete the testing and calibration until March 7, 2008.

During the Audit, the WECC Audit Team (Audit Team) reviewed URE's documentation for this possible non-compliance and determined that URE was compliant with this Standard at the time of the Audit.

The WECC Enforcement Department (WECC Enforcement) reviewed URE's Self-Report and the Audit Team's findings and determined that URE had a violation of BAL-005-0 R17 because URE did not perform the annual check and calibration by December 6, 2007, as required.

WECC determined the duration of the violation to be from December 6, 2007, the date the testing and calibration was to have been completed, through March 10, 2008, when URE completed its Mitigation Plan.

WECC determined that the violation of BAL-005-0 R17 did not pose a serious or substantial risk to the reliability of the BPS because although URE had not performed an annual check and calibration of the frequency devices in the URE Control Center, URE had independent external frequency sources at two substations that would have alerted URE operators to device errors.<sup>12</sup>

#### CIP-004-1

The purpose of CIP-004-1 is “Standard CIP-004 requires 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, training, and security awareness. CIP-004 should be read as part of a group of standards numbered Standards CIP-002 through CIP-009.”

CIP-004-1 R3, Personnel Risk Assessment, requires that:

The Responsible Entity<sup>13</sup> 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. Such program shall at a minimum include:

**R3.1.** The Responsible Entity shall ensure that each assessment conducted include, at least, identity verification (e.g., Social Security Number verification in the U.S.) and seven year criminal check. The Responsible Entity may conduct more detailed reviews, as permitted by law and subject to existing collective bargaining unit agreements, depending upon the criticality of the position.

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<sup>12</sup> The URE control center has two sources of commercial power and two independent generators. All critical systems are connected to two independent UPS systems.

<sup>13</sup> 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 Reliability Organizations.

**R3.2.** The Responsible Entity shall update each personnel risk assessment at least every seven years after the initial personnel risk assessment or for cause.

**R3.3.** The Responsible Entity shall document the results of personnel risk assessments of its personnel having authorized cyber or authorized unescorted physical access to Critical Cyber Assets, and that personnel risk assessments of contractor and service vendor personnel with such access are conducted pursuant to Standard CIP-004.

CIP-004-1 R3 has a “Medium” VRF.

CIP-004-1 R4 Access — requires that:

The Responsible Entity 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.

CIP-004-1 R4 and R4.1 each have a “Lower” VRF and R4.2 has a “Medium” VRF.

#### CIP-004-1 R3

On September 22, 2008, URE self-reported its non-compliance with CIP-004-1 R3, which it discovered on September 18, 2008 during an internal review. In its Self-Report, URE reported that three URE personnel, who had authorized cyber or authorized unescorted physical access to Critical Cyber Assets as of July 1, 2008, the effective mandatory implementation date for Balancing Authority and Transmission Operator functions, did not have personnel risk assessments completed within 30 days of gaining access in accordance with CIP-004-1 R3. Instead, URE completed these employees’ personnel risk assessments thirty-five (35) days after July 1, 2008. WECC subject matter experts (SMEs) reviewed URE’s Self-Report and determined that URE was non-compliant with CIP-004-1 R3.

WECC Enforcement reviewed URE’s submittals and the SMEs’ findings and determined that URE had a violation of CIP-004-1 R3 because it had three (3) employees who did not receive personnel risk assessments within the time frame set forth in CIP-004-1 R3.

WECC determined the duration of the violation of CIP-004-1 R3 to be from July 1, 2008, when the Standard became enforceable through September 22, 2008, when URE completed its Mitigation Plan.

WECC determined that the violation of CIP-004-1 R3 did not pose a serious or substantial risk to the reliability of the BPS because of the small number of employees that did not receive timely risk assessments and the short, five-day delay in completing the personnel risk assessments.

**CIP-004-1 R4**

Also on September 22, 2008, URE self-reported its non-compliance with CIP-004-1 R4 that was discovered on September 18, 2008 during an internal review. In its Self-Report, URE reported that three (3) of its employees retired or were terminated, but URE failed to remove them from its Master Access List in accordance with CIP-004-1 R4.2.<sup>14</sup>

Additionally, URE reported that seven (7) of its employees who had access to Critical Cyber Assets, as of July 1, 2008, were not identified in the Master Access List of individuals with physical and/or electronic access to Critical Cyber Assets. Finally, URE explained in its Self-Report that its listing of Critical Cyber Assets to which seventy-one individuals had access did not identify all Critical Cyber Assets to which each individual had access. WECC SMEs reviewed URE's Self-Report and determined that URE had a possible instance of non-compliance with CIP-004-1 R4.

WECC Enforcement reviewed URE's Self-Report and the SMEs' findings and determined that URE had a violation of CIP-004-1 R4 because it had three (3) employees whose names should have been removed from URE's Master Access List, had seven (7) employees who had access to Critical Cyber Assets and were not identified on the Master Access List as of July 1, 2008 and URE's Master Access List had seventy-one (71) individuals who had access to Critical Cyber Assets, but this list did not identify all of the Critical Cyber Assets to which they had access.

WECC determined the duration of the violation of CIP-004-1 R4 to be from July 1, 2008, when the Standard became enforceable through September 22, 2008 when URE completed its Mitigation Plan.

WECC determined that the violation of CIP-004-1 R4 did not pose a serious or substantial risk to the reliability of the BPS; however, WECC did determine that the violation posed a moderate risk to the reliability of the BPS because even though URE had a Master Access List of its personnel with access to Critical Cyber Assets, it was not maintaining the list within the timeframes required. In the case of the three (3) personnel, URE deactivated their access to its Critical Cyber Assets in a timely manner, but did not delete the names from the Master Access List within the timeframe set forth in the Standard.

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<sup>14</sup> The employees were removed from the Master Access List 11 to 45 days after URE should have removed their names.

**PRC-005-1**

The purpose of PRC-005-1 is “To ensure all transmission and generation Protection Systems<sup>[15]</sup> affecting the reliability of the Bulk Electric System (BES) are maintained and tested.” (footnote added)

PRC-005-1 R2 requires that:

Each Transmission Owner and any Distribution Provider that owns a transmission Protection System and each Generator Owner that owns a generation Protection System shall provide documentation of its Protection System maintenance and testing program and the implementation of that program to its Regional Reliability Organization on request (within 30 calendar days). The documentation of the program implementation shall include:

- R2.1 Evidence Protection System devices were maintained and tested within the defined intervals; and
- R2.2 Date each Protection System device was last tested/maintained.

PRC-005-1 R2 has a “Lower” VRF and its sub-requirements have “High” VRFs.

**First Violation**

On April 15, 2008, URE self-reported its possible non-compliance with PRC-005-1 R1. URE subsequently retracted its April 15, 2008 Self-Report and submitted a revised Self-Report on April 21, 2008 for its possible non-compliance with PRC-005-1 R2 because it had not tested and maintained some of its Protection Systems station batteries and, therefore, did not have the documentation to meet the requirements of PRC-005-1 R2.1 or R2.2.

In its revised Self-Report, URE identified monthly and quarterly station battery tests that it had failed to conduct at its generating stations in 2007, and in January and February 2008. Specifically, URE had missed one or more monthly tests of 12 station batteries (55% of batteries missed at least one monthly test) and quarterly maintenance for 16 batteries at URE’s 22 generating units (73% of batteries missed at least one quarterly maintenance in the violation period). WECC SMEs reviewed URE’s Self-Report and determined that URE had a possible non-compliance with PRC-005-1 R2.1 and PRC-005-1 R2.2.

WECC Enforcement reviewed URE’s Self-Reports and the SMEs’ findings and determined that URE had a violation of PRC-005-1 R2 because URE did not test all of its Protection Systems in accordance with its maintenance and testing program and therefore could not provide the documentation as requested, as required by PRC-005-1 R2.1 and R2.2.

WECC determined the duration of the violation of PRC-005-1 R2 to be from June 18, 2007, when the Standard became mandatory and enforceable through April 15, 2008 when URE completed its Mitigation Plan.

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<sup>15</sup> The NERC Glossary of Terms Used in Reliability Standards defines Protection System as “Protective relays, associated communication systems, voltage and current sensing devices, station batteries and DC control circuitry.”

The purpose of PRC-005-1 R2 is to ensure that all transmission and generation Protection Systems affecting the reliability of the BES are maintained and tested. Failure to document maintenance and testing of protection system elements creates a risk that the Entity will not perform the work, thereby creating an increased risk of system inoperability. WECC determined that the violation of PRC-005-1 R2 did not rise to the level of a serious or substantial risk to the reliability of the BPS because the percentage of batteries that were not tested was small relative to the total number of battery tests. However the violation did pose a moderate risk because the batteries are there to provide redundancy to station service to supply power to the protection systems..

**Second Violation**

At the Audit, WECC determined that URE had another possible non-compliance with PRC-005-1 R2 because URE did not provide, either before or at the Audit, the documentation that URE had maintained all of its Protection Systems in accordance with the requirements of PRC-005-1 R2.

The Audit Team interviewed URE's manager of system protection and requested a sampling of URE's Protection System maintenance and testing records. The sampling indicated that URE had not maintained and tested a number of Protection System devices within their defined schedule. URE's Protection System Maintenance and Testing Program's defined interval is a six-year period while the schedule is an annual grouping of devices to be tested. Thus a device can be missed in a schedule but still be tested within URE's established intervals.<sup>16</sup> Based on the sampling, the Audit Team requested records for all URE Protection System devices. URE was unable to provide the requested information by the completion of the Audit. The Audit Team forwarded its findings to WECC Enforcement for its review and consideration.

Subsequently, on June 27, 2008, URE submitted a Self-Report that included supplemental information showing that URE had not tested and maintained 189<sup>17</sup> out of 3,422 protective relay devices, or approximately 5.5% of URE's Protection System relay devices, within defined schedules, or that test records were missing for those devices. WECC SMEs reviewed URE's Self-Report and determined that URE had a possible non-compliance with this Standard. They forwarded URE's submittals and the SMEs' findings to WECC Enforcement for its review and consideration.

WECC reviewed URE's Self-Report and the SMEs' findings and determined that, based upon a comprehensive review of all maintenance and testing records provided by URE at the Audit and in support of URE's subsequent Self-Report, URE had maintained and tested the subject relays in accordance with its Protection System Maintenance and Testing Program intervals. However,

<sup>16</sup> The maintenance and testing information provided at the Audit indicated that some URE Protection System devices were, for example, scheduled to be tested within five years of the most recent prior test, even though the test interval under the URE maintenance and testing program is six years. The tests were not completed within five years, as initially scheduled, but were completed prior to the end of six years, thus being within the interval. As such, Protection System tests that originally appeared to be non-compliant were in fact compliant upon further review, as described in the Mitigation Plan.

<sup>17</sup> The Settlement Agreement incorrectly states that URE had not tested and maintained 157 relays. Additionally, 65% of the 189 devices outside the prescribed test period were scheduled to be tested in 2008.

URE was required by PRC-005-1 R2 to produce all requested records at the Audit, because WECC's 60-day audit notification letter constituted WECC's request for information. Therefore, in accordance with PRC-005-1 R2, WECC determined that URE had a violation because of its failure to produce requested evidence within 30 calendar days of the request.

WECC determined the duration of the violation of PRC-005-1 R2 to be from the Audit date of June 2, 2008, when URE failed to provide the requested documentation, through July 25, 2008, when URE provided evidence that it had tested and maintained its Protection System relays within its program intervals.

WECC determined that the violation of PRC-005-1 R2 posed a minimal risk to the reliability of the BPS because, although URE was unable to produce all of the requested maintenance and testing records at the Audit, the violation was documentary in nature because URE was performing the necessary maintenance and testing. URE later provided the necessary records.

**Regional Entity's Basis for Penalty**

According to the Settlement Agreement, WECC has assessed a penalty of fifty-five thousand dollars (\$55,000) for the referenced violations. In reaching this determination in addition to the factors listed above, WECC considered the following factors:

1. the violations of BAL-005-0 R17, CIP-004-1 R3 and R4 and the first occurrence of PRC-005-1 R2 are URE's first assessed non-compliance with the applicable Reliability Standards;
2. URE had a second violation of PRC-005-1 R2, which WECC considered an aggravating factor in the penalty determination, even though the second violation was not the same incident of non-compliance;
3. URE self-reported four of the five violations;
4. URE was cooperative throughout WECC's evaluation of its compliance with the Reliability Standards and the enforcement process;
5. URE had an effective internal compliance program (ICP), which WECC considered to be a mitigating factor in the penalty determination;
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 reliability of the BPS, as discussed above.

After consideration of all of the above factors, WECC determined that, in this instance, the penalty amount of fifty-five thousand dollars (\$55,000) is appropriate and bears a reasonable relation to the seriousness and duration of the violations.

**Status of Mitigation Plan<sup>18</sup>**

**BAL-005-0 R17**

URE's Mitigation Plan to address its violation of BAL-005-0 R17 was submitted to WECC on May 15, 2008<sup>19</sup> stating that it had been completed on March 10, 2008. The Mitigation Plan was accepted by WECC on June 6, 2008 during the Audit and approved by NERC on September 18, 2008. The Mitigation Plan for this violation is designated as MIT-08-0826 and was submitted as non-public information to FERC on September 18, 2008 in accordance with FERC orders.

URE's Mitigation Plan required URE to:

1. complete testing and calibration as required; and
2. add activities regarding testing and calibration to URE's management system.

On May 29, 2008, URE submitted a completed Mitigation Plan certifying completion on March 10, 2008, the date URE tested and calibrated its time error and frequency devices. Attached to the Mitigation Plan, as evidence of its completion, were the test records for the missing devices and URE's revised management system.

On June 6, 2008, during the Audit, after WECC's review of URE's submitted evidence, the Audit Team verified URE's Mitigation Plan was completed on March 10, 2008 and advised URE at the Audit that it was in compliance with BAL-005-0 R17. On April 1, 2010, WECC notified URE in a letter that URE was in compliance with BAL-005-0 R17.

**CIP-004-1 R3 and R4**

URE's Mitigation Plan to address its violations of CIP-004-1 R3 and CIP-004-1 R4 was submitted to WECC on October 22, 2008<sup>20</sup> stating that it had been completed on September 22, 2008. The Mitigation Plan was accepted by WECC on November 3, 2008 and approved by NERC on January 6, 2009. The Mitigation Plan for the violations is designated as MIT-08-1196 and was submitted as non-public information to FERC on January 6, 2009 in accordance with FERC orders.

URE's Mitigation Plan stated that URE had:

1. provided clarification to URE's Human Resources about the types of information needed to ensure timely removal of access for individuals who have terminated (voluntarily or involuntarily), transferred or retired;
2. re-created the Master Access List from source data (*i.e.*, login IDs for electronic access and card reader data for physical data) to ensure completeness and accuracy;
3. audited the Master Access List to verify that all individuals with access had completed training and the required background check;<sup>21</sup> and

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<sup>18</sup> See 18 C.F.R § 39.7(d)(7).

<sup>19</sup> The Mitigation Plan was signed on May 29, 2008.

<sup>20</sup> The Settlement Agreement incorrectly states the Mitigation Plan was submitted on September 22, 2008.

<sup>21</sup> Where either training or background checks had not been completed, access was removed pending completion.

4. strengthened processes to ensure compliance with the requirements of CIP-004 relating to training, background checks, timely removal of access and maintenance of the Master Access List to minimize the risk of reoccurrence

On October 22, 2008, URE submitted a completed Mitigation Plan certifying completion on September 22, 2008. Attached to its completed Mitigation Plan, as evidence of its completion, URE submitted the following:

1. Memo dated October 24, 2008 regarding Critical Infrastructure Protection quarterly validation.
2. Internal system operations center procedures
3. Operating procedure dated October 14, 2008 regarding a general screening program.

On November 3, 2008, after WECC's review of URE's submitted evidence, WECC verified that URE's Mitigation Plan was completed on September 22, 2008 and notified URE in a letter dated November 14, 2008 that URE was in compliance with CIP-004-1 R3 and CIP-004-1 R4.

#### PRC-005-1 R2

##### First Violation

URE's Mitigation Plan to address its first violation of PRC-005-1 R2 was submitted to WECC on May 20, 2008<sup>22</sup> stating that it had been completed on April 15, 2008. The Mitigation Plan was accepted by WECC at the Audit on June 2, 2008, and approved by NERC on May 11, 2009. The Mitigation Plan for this violation is designated as MIT-07-1651 and was submitted as non-public information to FERC on May 11, 2009 in accordance with FERC orders.<sup>23</sup>

URE's completed Mitigation Plan stated that URE had completed all required battery tests by March 31, 2008. In order to help prevent recurrence of a violation of this Standard, URE implemented an internal process to ensure, on a monthly basis, that the required tests are being completed on time.

On May 28, 2008, URE certified completion on April 15, 2008.<sup>24</sup> As evidence of completion of its Mitigation Plan, URE submitted the following:

1. spreadsheet showing the last completion date for annual and discharge tests, and the months and quarters in which monthly and quarterly tests were performed between June 2007 and May 2008;
2. documentation of the procedure created to verify, on a monthly basis, completion of required generation station battery tests; and
3. revisions to generation station battery maintenance procedures for monthly and quarterly testing to clarify the distinction between test types; and
4. copies of the monthly and quarterly preventative maintenance procedures.

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<sup>22</sup> The Settlement Agreement incorrectly states the Mitigation Plan was submitted on TBD.

<sup>23</sup> Mitigation Plan MIT-07-1651 was submitted to FERC as a violation of PRC-005-1 R2.1.

<sup>24</sup> The Certification of Completion incorrectly states that the Mitigation Plan was completed on March 31, 2008.

On June 6, 2008 during the Audit after WECC's review of URE's submitted evidence, WECC verified that URE's Mitigation Plan was completed on April 15, 2008, and notified URE on October 1, 2008, that URE had mitigated this non-compliance with PRC-005-1 R2.

**Second Violation**

URE's Mitigation Plan to address its second violation of PRC-005-1 R2 was submitted to WECC on July 25, 2008<sup>25</sup> with a proposed completion date of December 31, 2008. The Mitigation Plan was accepted by WECC on August 4, 2008 and approved by NERC on May 11, 2009. The Mitigation Plan for this violation is designated as MIT-07-1652 and was submitted as non-public information to FERC on May 11, 2009 in accordance with FERC orders.<sup>26</sup>

URE's Mitigation Plan required URE to complete testing of its relays that were not tested within URE's schedule by December 31, 2008. However, along with the submittal of its Mitigation Plan, URE submitted the maintenance and testing records that it had been unable to produce at the Audit. WECC SME's reviewed these records and confirmed that all required maintenance and testing had been conducted in accordance with the URE Protection System Maintenance and Testing Program intervals and the Standard, and therefore URE had mitigated the violation, which related to it not being able to produce the records.

However, URE proceeded to complete its Mitigation Plan requirements to have all its Protection System relays maintained and tested within its schedule as well as with its Protection System Maintenance and Testing intervals. On December 23, 2008, URE certified that its Mitigation Plan was completed on December 19, 2008. As evidence of completion of its Mitigation Plan, URE submitted a spreadsheet listing the test dates for the 189 relays that had not been tested according to its schedule.

After reviewing URE's evidence submitted on July 25, 2008 with its Mitigation Plan, WECC verified that URE's Mitigation Plan was completed on July 25, 2008 and notified URE in a letter dated May 7, 2009 that the violation of PRC-005-1 R2.1 was fully mitigated.

**Statement Describing the Proposed Penalty, Sanction or Enforcement Action Imposed<sup>27</sup>**

**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,<sup>28</sup> the NERC BOTCC reviewed the Settlement Agreement and supporting documentation on April 12, 2010. The NERC BOTCC approved the Settlement Agreement, including WECC's imposition of a financial penalty, assessing a penalty of fifty-five thousand dollars (\$55,000) against URE

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<sup>25</sup> The Mitigation Plan was signed on July 24, 2008.

<sup>26</sup> The Mitigation Plan was submitted to FERC as a violation of PRC-005-1 R2.1.

<sup>27</sup> See 18 C.F.R. § 39.7(d)(4).

<sup>28</sup> *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).

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) the violations of BAL-005-0 R17, CIP-004-1 R3 and R4 and the first occurrence of PRC-005-1 R2 are URE's first assessed non-compliance with the applicable Reliability Standards;
- (2) URE had a second violation of PRC-005-1 R2, which WECC considered an aggravating factor in the penalty determination, even though the second violation was not the same incident of non-compliance;
- (3) URE self-reported four of the five violations;
- (4) URE was cooperative throughout WECC's evaluation of its compliance with the Reliability Standards and the enforcement process;
- (5) URE had an effective internal compliance program (ICP);
- (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 reliability of the BPS, as discussed above.

For the foregoing reasons, the NERC BOTCC approves the Settlement Agreement and believes that the proposed penalty of fifty-five thousand dollars (\$55,000) is appropriate for the violations and circumstances in question, and is consistent with NERC's goal to promote and ensure reliability of the BPS.

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.

**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 WECC and URE entered into as of February 1, 2010, included as Attachment a;
- b) Record documents for the violation of BAL-005-0 R17, included as Attachment b:
  1. URE's Self-Report dated March 13, 2008;
  2. URE's Mitigation Plan designated as MIT-08-0826 dated May 15, 2008 and signed on May 29, 2008;
  3. URE's Certification of Completion of the Mitigation Plan dated May 29, 2008;
  4. WECC's Verification of Completion of the Mitigation Plan dated April 1, 2010;
- c) Record documents for the violations of CIP-004-1 R3 and R4, included as Attachment c:
  1. URE's Self-Report dated September 22, 2008;
  2. URE's Mitigation Plan designated as MIT-08-1196, and its Certification of Completion contained therein submitted October 22, 2008;
  3. WECC's Verification of Completion of the Mitigation Plan dated November 14, 2008;
- d) Record documents for the first violation of PRC-005-1 R2, included as Attachment d:
  1. URE's Self-Report dated April 21, 2008;
  2. URE's Mitigation Plan designated as MIT-07-1651 submitted May 20, 2008;
  3. URE's Certification of Completion of the Mitigation Plan dated May 28, 2008;
  4. WECC's Verification of Completion of the Mitigation Plan dated October 1, 2008;
- e) Record documents for the second violation of PRC-005-1 R2, included as Attachment e:
  1. WECC's Public Audit Screen Shot;
  2. URE's Mitigation Plan designated as MIT-07-1652 submitted July 25, 2008;
  3. URE's Certification of Completion of the Mitigation Plan dated December 23, 2008; and
  4. WECC's Verification of Completion of the Mitigation Plan dated May 7, 2009;

**A Form of Notice Suitable for Publication<sup>29</sup>**

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

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<sup>29</sup> 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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## Conclusion

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

Respectfully submitted,

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Attachments