

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

SEP 03 2019

Re: Second Release Letter  
FOIA No. FY19-30

VIA EMAIL AND REGULAR MAIL

Michael Mabee

[REDACTED]

[REDACTED]

CivilDefenseBook@gmail.com

Dear Mr. Mabee:

This is a response to your correspondence received on January 16, 2019, in which you requested information pursuant to the Freedom of Information Act (FOIA),<sup>1</sup> and the Federal Energy Regulatory Commission's (Commission) FOIA regulations, 18 C.F.R. § 388.108 (2018).

By letter dated June 13, 2019, I advised the submitter and the concerned Unidentified Registered Entities (URE) that a copy of the public version of the Notice of Penalty associated with Docket Nos. NP10-130, NP10-131, NP10-137, NP10-138, and NP10-140, along with the name of the URE inserted on the first page, would be disclosed to you no sooner than five calendar days from the date of my letter. *See* 18 C.F.R. § 388.112(e). The five-day notice period has elapsed and I am now releasing these public NOPs with the associated URE names on the first page to you.

Ordinarily, any appeal from a FOIA determination must be filed within 90 days of the date of issuance as provided by the FOIA and 18 C.F.R. § 388.110(a)(1) of the Commission's regulations. However, because your request is being processed on a rolling basis, the Commission will hold your appeal rights in abeyance pending a final determination. This will allow you to file a single appeal at the conclusion of our processing of your request.

If you decide to appeal, this appeal must be in writing, addressed to James P. Danly, General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, and clearly marked "Freedom of Information Act Appeal."

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<sup>1</sup> 5 U.S.C. § 552, *as amended* by the FOIA Improvement Act of 2016, Pub. L. No. 114-185, 130 Stat. 538 (2016).

Please include a copy to Charles A. Beamon, Associate General Counsel, General and Administrative Law, at the same address.

You also have the right to seek dispute resolution services from the FOIA Public Liaison of the agency or the Office of Government Information Services (OGIS). Using OGIS services does not affect your right to pursue your appeal. You may contact OGIS by mail at Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, MD 20740-6001; email at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 301-837-1996; facsimile at 301-837-0348; or toll-free at 1-877-684-6448.

Sincerely,



Leonard M. Tao  
Director  
Office of External Affairs

cc

Edwin G. Kichline, Esq.  
North American Electric Reliability Corporation  
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(Enclosures)



PRIVILEGED AND CONFIDENTIAL INFORMATION  
HAS BEEN REMOVED FROM THIS PUBLIC VERSION

NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

South Carolina Electric & Gas  
NP10-130

July 6, 2010

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

**Re: NERC Notice of Penalty,  
FERC Docket No. NP10-\_-000**

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Notice of Penalty,<sup>1</sup> which includes one (1) Non-Public Exhibit pertaining to a NERC Registered Entity. The Notice of Penalty set forth in the Non-Public Exhibit contains, in whole or in part, violations of the CIP-002 through CIP-009 Reliability Standards that were resolved by Settlement Agreement. The Registered Entity admitted to the violation and agreed to the penalty. This filing is submitted 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>

The Non-Public Exhibit identifies the Reliability Standards at issue, the basis for the violation and the impact to reliability, and the ultimate disposition. A summary is set forth below:

NERC Violation ID*	Reliability Std.	Req. (R)	Approved VRF <sup>3</sup>	Basis for Violation	Total Penalty (\$)
SERC200900264	CIP-004-1	4	Medium	The Registered Entity did not maintain lists of personnel with authorized unescorted physical access to Critical Cyber Assets. Also, it did not revoke physical access rights to Critical Cyber Assets within seven days for personnel who no longer required access. Specifically, it	0

<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 (2008). *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> Violation Risk Factors (VRF) are the current FERC approved assignments for the Reliability Standards.

				<p>discovered during a routine review of its access list that there was one instance where an individual had authorized unescorted physical access to the backup control center, which had not been properly revoked once access was no longer needed. The back up control center contains Critical Cyber Assets.</p> <p>Concurrent with a position transfer within Registered Entity, a request was made to the corporate Security Department to remove an employee's physical access to the primary and backup control centers. The request was processed and confirmed on the same day as the transfer, well within the seven-day requirement. However, due to an administrative keying error, access to a stairwell adjacent to the backup control center was revoked rather than access to the backup control center.</p> <p>This clerical error was discovered during a quarterly review by the designated manager. The Registered Entity explained that upon discovery, this access was immediately revoked and the Registered Entity's records showed that at no time did the individual access the back up control center, after the date that access should have been removed.</p> <p>The Registered Entity completed its Mitigation Plan to address the violation, which included implementing a computer application to process physical access requests, on a daily basis; reconciling the list of personnel with authorized unescorted physical access to Critical Cyber Assets with the results from the computer application, on a weekly basis; and conducting an internal review to ensure the access requested corresponds with the access granted.</p>	
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\*Due to the confidential nature of the CIP-002 through CIP-009 violations, the Registered Entity's name is not identified.

### **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.

**Notices and Communications**

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

Gerald W. Cauley  
President and Chief Executive Officer  
David N. Cook\*  
Vice President and General Counsel  
North American Electric Reliability Corporation  
116-390 Village Boulevard  
Princeton, New Jersey 08540-5721  
(609)452-8060  
(609) 452-9550 – facsimile  
gerry.cauley@nerc.net  
david.cook@nerc.net

\*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.

Rebecca J. Michael\*  
Assistant General Counsel  
Holly A. Hawkins\*  
Attorney  
V. Davis Smith\*  
Attorney (admitted in IN;  
not admitted in D.C. or NJ)  
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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,

/s/ Rebecca J. Michael

Gerald W. Cauley  
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July 6, 2010

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

**Re: NERC Notice of Penalty,  
FERC Docket No. NP10-\_-000**

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Notice of Penalty,<sup>1</sup> which includes one (1) Non-Public Exhibit pertaining to a NERC Registered Entity. The Notice of Penalty set forth in the Non-Public Exhibit contains, in whole or in part, violations of the CIP-002 through CIP-009 Reliability Standards that were resolved by a Settlement Agreement. The Registered Entity admitted to the violations and agreed to the penalty. This filing is submitted 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>

The Non-Public Exhibit identifies the Reliability Standards at issue, the basis for the violation and the impact to reliability, and the ultimate disposition. A summary is set forth below:

NERC Violation ID*	Reliability Std.	Req. (R)	Approved VRF	Basis for Violation	Total Penalty (\$)
SERC200800211	CIP-004-I	4	Lower	The Registered Entity failed to maintain lists of personnel with authorized cyber or authorized unescorted physical access rights to Critical Cyber Assets and failed to remove access within seven days for personnel who no longer required such access. Specifically, the Registered Entity failed to identify one person who had physical	5,000

<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).

**PRIVILEGED AND CONFIDENTIAL INFORMATION  
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				<p>access to its physical security perimeter, but did not have a current personnel risk assessment. In the spring and summer of 2008, the Registered Entity was working to update its software to implement controls necessary to comply with physical security requirements. To implement this change, the Registered Entity continued to run its existing access control system in production, while the upgraded access control system, was being run in a test environment. While both versions were running in parallel, changes to the access lists needed to be made in both systems. The violation occurred when access authorization was removed for the subject individual in the production system, but was not removed in the test system.</p> <p>When the upgraded version V4.0 was placed into production on May 27, 2008, the individual regained authorization to access the physical security perimeter. This error was not immediately identified because a flawed report failed to identify an access point into the physical security perimeter, and this individual had authorization to access the physical security perimeter through that point.<sup>3</sup> Once security fixed the flawed report, on September 24, 2008, the report then listed the one individual who did not have a personnel risk assessment.</p> <p>On September 26, 2008, control center personnel responsible for authorizing access to the physical security perimeter reviewed the corrected report, identified the issue and immediately removed the individual's access authorization. The Registered Entity's records show that at no time did the individual attempt or gain access to the physical security perimeter during the period when the standard became applicable until September 26, 2008, when the access was again revoked.</p> <p>On November 13, 2008, the Registered Entity submitted two additional self-reports highlighting two additional potential violations, discovered as a result of the corporate-wide review of its access control systems.</p> <p>The Registered Entity's internal investigation and Mitigation Plan implementation following the initial self-report uncovered an additional</p>	
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<sup>3</sup> Had the access point been included in the report or had the individual had access through other physical security parameter points, the error would likely have been identified prior to the system being put into production, and the authorization removed at that time.

				<p>individual who had physical access to Critical Cyber Assets, but did not have the required training or personnel risk assessment. It explained that this additional individual had not shown up in the original reports because the individual had not been granted access through the physical security perimeter, but did have authorization to access interior areas of the physical security perimeter. Upon discovery, the Registered Entity terminated the access authorization, and its records showed that this additional individual did not have unescorted access to the physical security perimeter at any time after the standard became mandatory and enforceable.</p> <p>In addition, a security guard at its affiliate determined that security staff had unescorted access to the primary and back-up control centers. As a result of the experience of its affiliate, the Registered Entity reviewed its own controls and discovered that certain members of its security staff unintentionally had unescorted access to its back-up control center. Based on this, the Registered Entity took additional actions to secure its back-up control center by limiting access and inserting additional controls around emergency access.</p> <p>The Registered Entity took the following actions to mitigate these issues: (1) immediately terminated access and completed the personnel risk assessment; (2) immediately replaced the existing key core for the access point where the violation occurred; (3) validated all success lists; (4) reviewed the Critical Cyber Asset physical access report design; (5) revised procedures to reflect control measures to ensure key hierarchy is replaced; (6) upgraded access control software and database structure; and (7) created a new position and hired a person with enterprise-wide responsibility for managing the access control system.</p>	
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\*Due to the confidential nature of the CIP-002 through CIP-009 violations, the Registered Entity name is not identified.

### **Request for Confidential Treatment**

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<p>Gerald W. Cauley President and Chief Executive Officer David N. Cook* Vice President and General Counsel North American Electric Reliability Corporation 116-390 Village Boulevard Princeton, New Jersey 08540-5721 (609)452-8060 (609) 452-9550 – facsimile gerry.cauley@nerc.net david.cook@nerc.net</p> <p>Marisa A. Sifontes* Compliance Legal Counsel SERC Reliability Corporation 2815 Coliseum Centre Drive Charlotte, NC 28217 (704) 494-7775 (704) 357-7914 – facsimile msifontes@serc1.org</p> <p>*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.</p>	<p>Rebecca J. Michael* Assistant General Counsel Holly Hawkins* Attorney V. Davis Smith* Attorney (admitted in IN; not admitted in D.C. or NJ) North American Electric Reliability Corporation 1120 G Street, N.W. Suite 990 Washington, D.C. 20005-3801 (202) 393-3998 (202) 393-3955 – facsimile rebecca.michael@nerc.net holly.hawkins@nerc.net davis.smith@nerc.net</p> <p>Kenneth B. Keels, Jr.* Manager of Compliance Enforcement SERC Reliability Corporation 2815 Coliseum Centre Drive Charlotte, NC 28217 (704) 940-8214 (704) 357-7914 – facsimile kkeels@serc1.org</p>
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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,

/s/ Rebecca J. Michael

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NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

PRIVILEGED AND CONFIDENTIAL INFORMATION  
HAS BEEN REMOVED FROM THIS PUBLIC VERSION

NP10-137 Tuscon Electric Power

July 6, 2010

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

**Re: NERC Notice of Penalty,  
FERC Docket No. NP10-\_-000**

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Notice of Penalty,<sup>1</sup> which includes one (1) Non-Public Exhibit pertaining to a NERC Registered Entity. The Notice of Penalty set forth in the Non-Public Exhibit contains, in whole or in part, violations of the CIP-002 through CIP-009 Reliability Standards that were resolved by Settlement Agreement. The Registered Entity neither admits nor denies the violation and agrees to the penalty. This filing is submitted 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>

The Non-Public Exhibit identifies the Reliability Standards at issue, the basis for the violation and the impact to reliability, and the ultimate disposition. A summary is set forth below:

NERC Violation ID*	Reliability Std.	Req. (R)	Approved VRF	Basis for Violation	Total Penalty (\$)
WECC200801086	BAL-005-0	17	Medium	The Registered Entity did not annually check and calibrate time error and frequency devices against a common reference. Registered Entity uses two TrueTime devices with frequency measurement modules, which calibrate and	\$39,000

<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 (2008). 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).

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NERC Violation ID*	Reliability Std.	Req. (R)	Approved VRF	Basis for Violation	Total Penalty (\$)
				<p>check themselves. During the Audit, the Audit Team determined that Registered Entity was non-compliant with this Standard because the Registered Entity could not provide documentation demonstrating that these devices were calibrated or had their frequencies checked against a common frequency source. Enforcement reviewed the Audit findings and confirmed that the Registered Entity had a violation of this Standard because Registered Entity failed to at least annually check and calibrate its time error and frequency devices against a common reference. The violation was confirmed based on NERC's formal interpretation that, for this type of device, "[s]ome devices used for time error and frequency measurement cannot be calibrated as such. In this case, these devices should be cross-checked against other properly calibrated equipment and replaced if the devices do not meet the required level of accuracy."<sup>3</sup></p> <p>Additionally, the Registered Entity needed to revise its Area Generation Control operating procedures.</p> <p>WECC required the Registered Entity to cross check its devices against an independent frequency device, which it did utilizing a Rochester frequency transducer. Also, the Registered Entity updated its procedures to stipulate that the Generation Supervisor will ensure that frequency and time error devices operate correctly by verifying the frequency readings are within at least 0.001 Hz of the properly calibrated device. The procedures also stated that the Generation Supervisor will make a log entry in the Generation Desk Log.</p>	
WECC200801087	CIP-001-1	1	Medium	<p>The Registered Entity did not provide a document that provided guidance for sabotage reporting and communicating with operations personnel for the entire Audit period. The document submitted prior to and during the Audit was dated September 2008. The Registered Entity's prior documentation addressed sabotage procedures, but it did not address sabotage reporting and communicating with operations personnel as required by the Reliability Standard.</p>	

<sup>3</sup> See NERC Reliability Standard BAL-005-0.1b at p 5 ([http://www.nerc.com/files/BAL-005-0\\_1b.pdf](http://www.nerc.com/files/BAL-005-0_1b.pdf)).

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NERC Violation ID*	Reliability Std.	Req. (R)	Approved VRF	Basis for Violation	Total Penalty (\$)
				The Registered Entity mitigated this violation by revising its sabotage procedure to include guidelines for recognizing and notifying operating personnel of possible sabotage events.	
WECC200800963	CIP-004-1	3	Medium	<p>The Registered Entity did not perform seven year criminal checks and identity verifications for all of its employees with authorized cyber or authorized unescorted physical access to Critical Cyber Assets. Further, it had not prepared employee release forms for the seven-year background checks as required by the Standard. Therefore, the Registered Entity was unable to perform the personnel risk assessment according to the timing requirements in CIP-004-1, R3. No one without the requisite background check entered the area unescorted.</p> <p>The Registered Entity mitigated this violation by performing background and identity verification checks on all employees with authorized cyber or authorized unescorted physical access to Critical Cyber Assets and preparing employee release forms to execute the seven-year background checks.</p>	
WECC200801088	EOP-001-0	1	High	<p>The Registered Entity did not have an operating agreement with provisions to obtain emergency assistance from remote Balancing Authorities. It did not obtain emergency assistance agreements with adjacent Balancing Authorities until April 16, 2008.</p> <p>The Registered Entity mitigated this violation by revising its procedure on emergency assistance for capacity and energy emergencies to provide instructions for emergency assistance to member Balancing Authority(ies) for events other than disturbances.</p>	
WECC200801089	PRC-005-1	1	High	<p>The Registered Entity's maintenance and testing procedures established in its September 2008 documentation did not specifically address voltage devices, current sensing devices, and DC circuitry; however, WECC confirmed that these devices were tested and maintained.</p> <p>WECC required the Registered Entity to revise its Generation and Transmission</p>	

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NERC Violation ID*	Reliability Std.	Req. (R)	Approved VRF	Basis for Violation	Total Penalty (\$)
				Protection System Maintenance and Testing Program to include voltage devices, current sensing devices, and DC circuitry basis.	
WECC200801090	PRC-005-1	2	Lower	<p>The Registered Entity did not implement maintenance and testing program for 246 devices, representing approximately 13.5% of the sub-transmission Protection System devices.</p> <p>WECC required the Registered Entity to test and maintain the subject devices on its 138 kV system with specified milestones and completion dates.</p>	
WECC200801225	PRC-017-0	1	High	<p>The Registered Entity did not have policies, procedures, and records developed for maintenance and testing of its Special Protection System.</p> <p>The Registered Entity mitigated this violation by developing procedures and implementing a policy and procedure for maintenance and testing of its special protection systems. Further, WECC required it to complete and document end-to-end testing and maintenance of its special protection systems, as required by the Standard.</p>	
WECC200801091	TPL-001-0	1	High	<p>The Registered Entity did not study multiple demand levels defined in Category A or produce an annual assessment.</p> <p>WECC required the Registered Entity to study multiple demands levels over the range of forecast system demands. Also it was required to provide an addendum to its annual assessment to include an analysis of winter (off-peak) conditions. Further, if any issues were identified in the winter assessment that required longer lead-time solutions, an analysis of off-peak conditions beyond the five-year horizon would be conducted and reported on. If longer lead-time solutions were not identified in the winter assessment, then the Registered Entity would note this in the addendum and longer-term off-peak analysis would not be conducted.</p>	
WECC200801092	TPL-002-0	1	High	<p>The Registered Entity did not study multiple demand levels defined in Category B or produce an annual assessment.</p> <p>WECC required the Registered Entity to study</p>	

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				multiple demands levels over the range of forecast system demands. Also it was required to provide an addendum to its annual assessment to include an analysis of winter (off-peak) conditions. Further, if any issues were identified in the winter assessment that required longer lead-time solutions, an analysis of off-peak conditions beyond the five-year horizon would be conducted and reported on. If longer lead-time solutions were not identified in the winter assessment, then the Registered Entity would note this in the addendum and longer-term off-peak analysis would not be conducted.	
WECC200801093	TPL-003-0	1	High	<p>The Registered Entity did not study multiple demand levels defined in Category C or produce an annual assessment.</p> <p>WECC required the Registered Entity to study multiple demands levels over the range of forecast system demands. Also it was required to provide an addendum to its annual assessment to include an analysis of winter (off-peak) conditions. Further, if any issues were identified in winter assessment that required longer lead-time solutions, an analysis of off-peak conditions beyond the five-year horizon would be conducted and reported on. If longer lead-time solutions were not identified in the winter assessment, then the Registered Entity would note this in the addendum and longer-term off-peak analysis would not be conducted.</p>	
WECC200801510	TPL-004-0	1	Medium	<p>The Registered Entity did not produce a study of the impact of various demand levels (defined in Category D) on the bulk power system or produce an annual assessment.</p> <p>Although the Registered Entity maintained that it had completed the study of the impact of various demand levels as required by the Standard, it did not produce the studies. Additionally, the Registered Entity did not have a valid assessment for one of the years for which the TPL-004-0 was mandatory and enforceable. The Registered Entity mitigated this violation by providing a valid annual assessment.</p>	

\*Due to the confidential nature of the CIP-002 through CIP-009 violations, the Registered Entity's name is not identified.

### **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.

### Notices and Communications

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

<p>Gerald W. Cauley President and Chief Executive Officer David N. Cook* Vice President and General Counsel North American Electric Reliability Corporation 116-390 Village Boulevard Princeton, New Jersey 08540-5721 (609)452-8060 (609) 452-9550 – facsimile gerry.cauley@nerc.net david.cook@nerc.net</p> <p>Steven Goodwill* Associate General Counsel Western Electricity Coordinating Council 155 North 400 West, Suite 200 Salt Lake City, UT 84103 (801) 883-6857 (801) 883-6894 – facsimile SGoodwill@wecc.biz</p> <p>Christopher Luras* Manager of Compliance Enforcement Western Electricity Coordinating Council 155 North 400 West, Suite 200 Salt Lake City, UT 84103 (801) 883-6887 (801) 883-6894 – facsimile CLuras@wecc.biz</p> <p>*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.</p>	<p>Rebecca J. Michael* Assistant General Counsel Holly A. Hawkins* Attorney V. Davis Smith* Attorney (admitted in IN; not admitted in D.C. or NJ) North American Electric Reliability Corporation 1120 G Street, N.W. Suite 990 Washington, D.C. 20005-3801 (202) 393-3998 (202) 393-3955 – facsimile rebecca.michael@nerc.net holly.hawkins@nerc.net davis.smith@nerc.net</p> <p>Louise McCarren* Chief Executive Officer Western Electricity Coordinating Council 155 North 400 West, Suite 200 Salt Lake City, UT 84103 (801) 883-6868 (801) 582-3918 – facsimile Louise@wecc.biz</p> <p>Constance White* Vice President of Compliance Western Electricity Coordinating Council 155 North 400 West, Suite 200 Salt Lake City, UT 84103 (801) 883-6885 (801) 883-6894 – facsimile CWhite@wecc.biz</p>
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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,

/s/ Rebecca J. Michael

Gerald W. Cauley  
President and Chief Executive Officer  
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NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

PRIVILEGED AND CONFIDENTIAL INFORMATION HAS  
BEEN REMOVED FROM THIS PUBLIC VERSION

NP10-138  
Duke Energy Co.

July 6, 2010

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

**Re: NERC Non-Public Notices of Penalty,  
FERC Docket No. NP10-\_-000**

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Notice of Penalty<sup>1</sup>, which includes one (1) Non-Public Exhibit pertaining to a NERC Registered Entity. The Notice of Penalty set forth in the Non-Public Exhibit contains, in whole or in part, violations of the CIP-002 through CIP-009 Reliability Standards that were resolved by Settlement Agreement. The Registered Entity admits to the violation and agrees to the penalty. This filing is submitted 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>

The Non-Public Exhibit identifies the Reliability Standards at issue, the basis for the violation and the impact to reliability, and the ultimate disposition. A summary is set forth below:

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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 (2008). *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).

NERC Violation ID*	Reliability Std.	Req. (R)	Approved VRF <sup>3</sup>	Basis for Violation	Total Penalty (\$)
RFC200900134	CIP-004-1	4.2	Medium	<p>The Registered Entity did not revoke physical access rights to Critical Cyber Assets within seven days for personnel who no longer required access. The Registered Entity discovered seven instances where records could not be located to demonstrate badge deactivations occurred in a timely manner for personnel who no longer required access to Critical Cyber Assets. Subsequently, the Registered Entity submitted a letter in which it identified two additional instances in which revocation was similarly delayed and occurred in the same time frame as the original seven. Therefore, the Registered Entity self-reported a total of nine instances where access badges were not deactivated in a timely manner, following termination of those employees.</p> <p>Specifically, the Registered Entity historically relied on the submittal of an electronic form to the badge office as the primary means of requesting revocation of badge access. It also permitted requests via telephone or e-mail, instead of the electronic form, to the badge office. In the incidents discovered during the audit, the responsible supervisors for the affected personnel failed to notify the badge office via any of the above mentioned methods that the badge access should be revoked.</p> <p>Additionally, at the time of the occurrences, the Registered Entity utilized an automated program designed to run once every 24 hours, extracting termination information from the Human Resources (HR) data mart and passing that data to its badge system. This process resulted in the automatic revocation of physical access privileges for terminated employees. This method served as a back-up to the process of submitting an electronic form, e-mail or</p>	5,000

<sup>3</sup> Violation Risk Factors (VRF) are the current FERC approved assignments for the Reliability Standards.

			<p>telephone call to the badge office requesting physical access revocation.<sup>4</sup></p> <p>Also according to the Mitigation Plan, the investigation performed by the Registered Entity revealed two time periods, April 2, 2008 through August 15, 2008 and November 20, 2008 through January 9, 2009, when the HR to badge system interface was not synchronizing. As a result, there were no automatic physical access revocations or electronic access revocation forms submitted for the nine cases identified during these two time periods. Specifically, the earliest date it failed to terminate physical access to Critical Cyber Assets was identified as May 26, 2008, and instead of access being removed within seven days, access was removed on July 8, 2008. The last date it failed to terminate physical access to Critical Cyber Assets was identified as December 29, 2008, and instead of access being removed within seven days, access was removed on January 8, 2009.</p> <p>According to a subsequent letter, there were additional instances, not mentioned in the Mitigation Plan, in which it failed to revoke physical access in a timely manner. The Registered Entity failed to terminate access to Critical Cyber Assets on November 30, 2008, and instead of access being removed within seven days, access was removed on January 14, 2008.<sup>5</sup></p> <p>Electronic access rights were not at issue in this instance as the employees in question never had electronic access to Critical Cyber Assets.</p> <p>The Registered Entity mitigated this violation by implementing an independent process for the reconciliation of terminations or transfers of employees with access to Critical Cyber Assets</p>	
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<sup>4</sup> This system covered the revocation of access for employees, contractors, terminations and transfers.

<sup>5</sup> In the Mitigation Plan submitted and completed by the Registered Entity, efforts to retrain and reinforce the need for timely access removal was performed. The Registered Entity also implemented additional procedures to correct the syncing problems between HR and the badging system. Both of the additional incidents reported in the October 19, 2009 letter occurred during the same timeframe of the initially self-reported items. The Registered Entity reported that the mitigating activities that have been completed also addressed the cause of these newly discovered incidents. No additional instances have been identified since the completion of the Mitigation Plan.

				<p>against changes to the maintained lists of employees with physical and electronic access to Critical Cyber Assets. Also it committed to removing all inappropriate employee access and to correct its HR practices so that its badge access lists are synchronized with HR records twice daily. The Registered Entity:</p> <ol style="list-style-type: none"><li>1. provided additional training for managers regarding proper procedures for removing access to relevant cyber assets;</li><li>2. changed internal process to notify an administrator and other personnel of changes processed by HR regarding personnel with access to critical cyber assets;</li><li>3. removed access for terminated or transferred employees as determined by internal investigation or audit action;</li><li>4. implemented a program change to migrate employee termination processing from a legacy mainframe application to its workforce hub;</li><li>5. changed the synchronization of HR and badging system records from once daily to twice daily;</li><li>6. reiterated to managers the need for timely access revocation;</li><li>7. created automatic triggering of follow-up actions for identified anomalies;</li><li>8. reduced the number of personnel authorized to access the restricted area; and</li><li>9. enhanced the presentations and materials used by managers in the hiring, termination and transfer processes.</li></ol>	
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				<p>Additionally, it took the following additional actions:</p> <ol style="list-style-type: none"><li>1. monitoring of the HR and badging system synchronization process to ensure proper and timely operation; and</li><li>2. daily termination reports are generated for use by access control personnels.</li></ol>	
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\*Due to the confidential nature of the CIP-002 through CIP-009 violations, the Registered Entity's name is not identified.

### **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.

**Notices and Communications**

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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,

/s/ Rebecca J. Michael

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NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

PRIVILEGED AND CONFIDENTIAL INFORMATION HAS  
BEEN REMOVED FROM THIS PUBLIC VERSION

NP10-140

PJM

July 6, 2010

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

**Re: NERC Notice of Penalty,  
FERC Docket No. NP10-\_-000**

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Notice of Penalty,<sup>1</sup> which includes one (1) Non-Public Exhibit pertaining to a NERC Registered Entity. The Notice of Penalty set forth in the Non-Public Exhibit contains, in whole or in part, violations of the CIP-002 through CIP-009 Reliability Standards that were resolved by Settlement Agreement. The Registered Entity admitted to the violation and agreed to the penalty. This filing is submitted 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>

The Non-Public Exhibit identifies the Reliability Standards at issue, the basis for the violation and the impact to reliability, and the ultimate disposition. A summary is set forth below:

NERC Violation ID*	Reliability Std.	Req. (R)	Approved VRF	Basis for Violation	Total Penalty (\$)
RFC200900116	CIP-004-1	4	Lower	The Registered Entity identified three separate instances of non-compliance with CIP-004-1 R4.  The Registered Entity did not maintain its access list (giving access to unauthorized personnel) or revoke access within seven days for personnel who no longer required access to Critical Cyber	5,600

<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 (2008). *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).

			<p>Assets.</p> <p>First, one employee no longer needed the user access roles currently assigned to him for two Critical Cyber Assets. According to CIP-004-1 R4.1, upon submission of this change in access, the Registered Entity had seven calendar days to update the list of personnel with authorized cyber access and to revoke the access to Critical Cyber Assets. Because of an administrative error, the list of personnel with cyber access to Critical Cyber Assets was not updated, and the user's access roles were not changed for these Critical Cyber Assets. The user's access was later reauthorized by the manager on December 1, 2008 and subsequently revoked. The change in access was not noticed and therefore, it was not reflected in the list of employees with access to Critical Cyber Assets.</p> <p>Second, an employee was provided access to a Critical Cyber Asset that was not indicated on the initial or subsequent authorization forms. Specifically, an employee's access to a system was not indicated on the employee's initial or subsequent access authorization forms, nor was this permission added to the list of personnel with access to Critical Cyber Assets. The employee was not aware of this access, and there is no logging that would indicate that the employee used this specific role.</p> <p>Third, an employee was provided unauthorized access to a system. The employee was not aware of this access, and there is no logging that would indicate that the employee used this specific role.</p> <p>The Registered Entity mitigated this violation by: (1) correcting and removing unauthorized access to Critical Cyber Assets; (2) adding an additional human resource for account authorization activities; (3) implementing software to identify and control changes to Critical Cyber Assets; (4) implementing daily account authorization reconciliation for the access lists; (5) peer review of access change reports; and (6) providing additional training for personnel with Critical Cyber Asset administration privileges.</p> <p>As a part of its account reconciliation effort, the</p>	
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				Registered Entity discovered four hundred and eighty-eight (488) privileges not reflected in the CIP-004-1 R4 access list, categorized as follows: (1) Clerical Errors for Authorized Access, (2) Clerical Errors Leading to Unauthorized Access, (3) Technical Implementation Errors, and (4) Discrepancies Lacking Evidence. The Registered Entity resolved these discrepancies as part of its Mitigation Plan.
RFC200900139	CIP-004-1	3.2	Lower	<p>The Registered Entity did not complete personnel risk assessments for five contractors within seven years of the initial personnel risk assessments completed for those contractors. Three of the contractors in question were security guards, and two of the contractors in question were service vendors.</p> <p>The Registered Entity mitigated the violation by: (1) performing a review of individuals with access to Critical Cyber Assets requiring personnel risk assessments; (2) completing outstanding personnel risk assessments; (3) documenting the procedure required for reviewing and administering seven-year background checks; (4) designating secondary and tertiary individuals responsible for the personnel risk assessment process; (5) and establishing a process to resolve discrepancies in the contractor list.</p>

\*Due to the confidential nature of the CIP-002 through CIP-009 violations, the Registered Entity's name is not identified.

### **Request for Confidential Treatment**

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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,

/s/ Rebecca J. Michael

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