



NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

PRIVILEGED AND CONFIDENTIAL INFORMATION
HAS BEEN REMOVED FROM THIS PUBLIC VERSION

NP11-251

Black Hills Power, Inc.

July 28, 2011

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

**Re: NERC Abbreviated 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 Abbreviated Notice of Penalty (NOP) regarding Unidentified Registered Entity (URE), with information and details regarding the nature and resolution of the violation¹ discussed in detail in the Settlement Agreement (Attachment a) and the Disposition Document (Attachment b), 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)).²

This NOP is being filed with the Commission because Western Electricity Coordinating Council (WECC) and URE have entered into a Settlement Agreement to resolve all outstanding issues arising from WECC's determination and findings of the violation of CIP-006-1 Requirement (R) 1.1. According to the Settlement Agreement, URE admits to the stipulated violation facts and has agreed to the assessed penalty of seven thousand dollars (\$7,000), in addition to other remedies and actions to mitigate the instant violation and facilitate future compliance under the terms and conditions of the Settlement Agreement. Accordingly, the violation identified as NERC Violation Tracking Identification Number WECC201002031 is being filed in accordance with the NERC Rules of Procedure and the CMEP.

¹ For purposes of this document, each violation at issue is described as a "violation," regardless of its procedural posture and whether it was a possible, alleged or confirmed violation.

² *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 (2011). *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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Statement of Findings Underlying the Violation

This NOP incorporates the findings and justifications set forth in the Settlement Agreement executed on March 9, 2011, by and between WECC and URE. The details of the findings and the basis for the penalty are set forth in the Disposition Document. This NOP 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.

NOC ID	NERC Violation ID	Reliability Std.	Req. (R)	VRF	Duration	Total Penalty (\$)
NOC-840	WECC201002031	CIP-006-1	1.1	Medium ³	12/31/09-9/21/10	7,000

The text of the Reliability Standard at issue and further information on the subject violations are set forth in the Disposition Document.

CIP-006-1 R1.1 - OVERVIEW

URE submitted its Self-Certification to WECC citing a violation of CIP-006-1 R1.1. WECC determined that URE failed to ensure all Cyber Assets within its Electronic Security Perimeter were located within an identified Physical Security Perimeter (PSP) defined as a "six-walled" border when it identified five Critical Cyber Assets outside of the identified PSP.

Statement Describing the Assessed Penalty, Sanction or Enforcement Action Imposed⁴**Basis for Determination**

Taking into consideration the Commission's direction in Order No. 693, the NERC Sanction Guidelines, the Commission's July 3, 2008, October 26, 2009 and August 27, 2010 Guidance Orders,⁵ the NERC BOTCC reviewed the Settlement Agreement and supporting documentation on June 10, 2011. The NERC BOTCC approved the Settlement Agreement, including WECC's assessment of a seven thousand dollar (\$7,000) financial penalty 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 violation at issue.

³ CIP-006-1 R1, R1.1, R1.2, R1.3, R1.4, R1.5 and R1.6 are each assigned a Medium Violation Risk Factor (VRF) and CIP-006-1 R1.7, R1.8 and R1.9 are each assigned a Lower VRF.

⁴ See 18 C.F.R. § 39.7(d)(4).

⁵ *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); *North American Electric Reliability Corporation*, "Notice of No Further Review and Guidance Order," 132 FERC ¶ 61,182 (2010).

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

1. the violation constituted URE's first occurrence of violation of the subject NERC Reliability Standard;
2. WECC reported that URE was cooperative throughout the compliance enforcement process;
3. URE had a compliance program at the time of the violation which WECC considered a mitigating factor, as discussed in the Disposition Document;
4. there was no evidence of any attempt to conceal a violation nor evidence of intent to do so;
5. WECC determined that the violation did not pose a serious or substantial risk to the reliability of the bulk power system (BPS), as discussed in the Disposition Document; and
6. WECC reported that there were no other mitigating or aggravating factors or extenuating circumstances that would affect the assessed penalty.

For the foregoing reasons, the NERC BOTCC approved the Settlement Agreement and believes that the assessed penalty of seven thousand dollars (\$7,000) is appropriate for the violation and circumstances at issue, and is consistent with NERC's goal to promote and ensure reliability of the BPS.

Pursuant to 18 C.F.R. § 39.7(e), the penalty will be effective upon expiration of the 30 day period following the filing of this NOP 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 NOP include 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 to the Rules of Procedure. This includes non-public information related to certain Reliability Standard violations, certain Regional Entity investigative files, Registered Entity sensitive business information and confidential information regarding critical energy infrastructure.

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.



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Attachments to be included as Part of this Notice of Penalty

The attachments to be included as parts of this NOP are the following documents:

- a) Settlement Agreement by and between WECC and URE executed March 9, 2011, included as Attachment a;
- b) Disposition Document, included as Attachment b;
- c) URE's Self-Certification, included as Attachment c;
- d) URE's Mitigation Plan, included as Attachment d;
- e) URE's Certification of Mitigation Plan Completion, included as Attachment e; and
- f) WECC's Verification of Mitigation Plan Completion, included as Attachment f.

A Form of Notice Suitable for Publication⁶

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

⁶ See 18 C.F.R. § 39.7(d)(6).

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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* Sr. Vice President and General Counsel North American Electric Reliability Corporation 116-390 Village Boulevard Princeton, NJ 08540-5721 (609) 452-8060 (609) 452-9550 – facsimile david.cook@nerc.net</p> <p>Mark Maher* Chief Executive Officer Western Electricity Coordinating Council 155 North 400 West, Suite 200 Salt Lake City, UT 84103 (360) 213-2673 (801) 582-3918 – facsimile Mark@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) 883-6855 (801) 883-6894 – facsimile CWhite@wecc.biz</p> <p>Sandy Mooy* Associate General Counsel Western Electricity Coordinating Council 155 North 400 West, Suite 200 Salt Lake City, UT 84103 (801) 819-7658 (801) 883-6894 – facsimile SMooy@wecc.biz</p>	<p>Rebecca J. Michael* Associate General Counsel for Corporate and Regulatory Matters Davis Smith* Attorney North American Electric Reliability Corporation 1120 G Street, N.W. Suite 990 Washington, DC 20005-3801 (202) 393-3998 (202) 393-3955 – facsimile rebecca.michael@nerc.net davis.smith@nerc.net</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>
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Conclusion

Accordingly, NERC respectfully requests that the Commission accept this Abbreviated NOP as compliant with its rules, regulations and orders.

Respectfully submitted,

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David N. Cook
Sr. Vice President and General Counsel
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/s/ Rebecca J. Michael
Rebecca J. Michael
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cc: Unidentified Registered Entity
Western Electricity Coordinating Council

Attachments



NERC

NORTH AMERICAN ELECTRIC
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Attachment b

Disposition Document

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Attachment b

DISPOSITION OF VIOLATION¹

Dated June 10, 2011

NERC TRACKING NO.	REGIONAL ENTITY TRACKING NO.	NOC#
WECC201002031	WECC2010-609887	NOC-840
REGISTERED ENTITY		NERC REGISTRY ID
Unidentified Registered Entity (URE)		NCRXXXXX
REGIONAL ENTITY		
Western Electricity Coordinating Council (WECC)		

I. VIOLATION INFORMATION

RELIABILITY STANDARD	REQUIREMENT(S)	SUB-REQUIREMENT(S)	VRF(S)	VSL(S)
CIP-006-1	1	1.1	Medium²	N/A³

PURPOSE OF THE RELIABILITY STANDARD AND TEXT OF RELIABILITY STANDARD AND REQUIREMENT(S)/SUB-REQUIREMENT(S)

The purpose statement of CIP-006-1 provides in pertinent part: “Standard CIP-006 is intended to ensure the implementation of a physical security program for the protection of Critical Cyber Assets. Standard CIP-006 should be read as part of a group of standards numbered Standards CIP-002 through CIP-009.”

CIP-006-1 R1 provides in pertinent part:

R1. Physical Security Plan — The Responsible Entity¹⁴ shall create and maintain a physical security plan, approved by a senior manager or delegate(s) that shall address, at a minimum, the following:

¹ For purposes of this document and attachments hereto, each violation at issue is described as a “violation,” regardless of its procedural posture and whether it was a possible, alleged or confirmed violation.

² CIP-006-1 R1, R1.1, R1.2, R1.3, R1.4, R1.5 and R1.6 are each assigned a Medium Violation Risk Factor (VRF) and CIP-006-1 R1.7, R1.8 and R1.9 are each assigned a Lower VRF.

³ At the time of the violations, no VSLs were in effect for CIP-006-1. On June 30, 2009, NERC submitted VSLs for the CIP-002-1 through CIP-009-1 Reliability Standards. On March 18, 2010, the Commission approved the VSLs as filed, but directed NERC to submit modifications.

⁴ Within the text of Standard CIP-006, “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, and Regional Reliability Organizations.

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R1.1. Processes to ensure and document that all Cyber Assets within an Electronic Security Perimeter also reside within an identified Physical Security Perimeter. Where a completely enclosed (“six-wall”) border cannot be established, the Responsible Entity shall deploy and document alternative measures to control physical access to the Critical Cyber Assets.

(Footnote added.)

VIOLATION DESCRIPTION

URE submitted a Self-Certification of noncompliance with CIP-006-1 R1.1 to WECC stating that at a facility, five Critical Cyber Assets (CCAs) thought to be within an identified Physical Security Perimeter (PSP) were discovered outside the identified PSP.

A WECC Compliance Subject Matter Expert (SME) reviewed URE’s Self-Certification and six documents that together comprise the Physical Security Plan for URE. The SME confirmed that URE identified a single PSP at the facility. The five CCAs, were discovered outside the identified PSP, however they were within an Electronic Security Perimeter (ESP). Therefore, URE created and implemented its Physical Security Plan (Plan), but processes in place did not ensure all Cyber Assets within an ESP were located within an “identified PSP,” which in this case was the control room. This failure was a violation of CIP-006-1 R1.1.

RELIABILITY IMPACT STATEMENT- POTENTIAL AND ACTUAL

WECC determined that the violation posed a minimal risk and did not pose a serious or substantial risk to the reliability of the bulk power system (BPS) because although URE failed to locate five CCAs within an identified PSP, each CCA was contained within a secured physical area. The CCAs were secured within a layered security area. The facility is surrounded by eight foot high gates with access points monitored and controlled by security personnel and controlled key access. Further, each CCA was located within a building with some form of access control and monitoring. Additionally, each device was identified as a CCA and further protected by within a locker. URE provided evidence demonstrating its Plan did ensure all other CCAs at the facility resided within an identified PSP secured by measures under Requirements 2 and 3. Further, each Cyber Asset contained within these borders had some measure of access control and security monitoring.

IS THERE A SETTLEMENT AGREEMENT

YES

NO ☐

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WITH RESPECT TO THE VIOLATION(S), REGISTERED ENTITY

NEITHER ADMITS NOR DENIES IT (SETTLEMENT ONLY) YES ☐ADMITS TO IT YES ☒**Stipulates to the facts of the violation**DOES NOT CONTEST IT (INCLUDING WITHIN 30 DAYS) YES ☐WITH RESPECT TO THE ASSESSED PENALTY OR SANCTION, REGISTERED
ENTITYACCEPTS IT/ DOES NOT CONTEST IT YES ☒**III. DISCOVERY INFORMATION**

METHOD OF DISCOVERY

SELF-REPORT ☐SELF-CERTIFICATION ☒COMPLIANCE AUDIT ☐COMPLIANCE VIOLATION INVESTIGATION ☐SPOT CHECK ☐COMPLAINT ☐PERIODIC DATA SUBMITTAL ☐EXCEPTION REPORTING ☐

DURATION DATE(S) 1/1/10 through 9/21/10 (Mitigation Plan completion)

DATE DISCOVERED BY OR REPORTED
TO REGIONAL ENTITY**Self-Certification**IS THE VIOLATION STILL OCCURRING YES ☐ NO ☒

IF YES, EXPLAIN

REMEDIAL ACTION DIRECTIVE ISSUED YES ☐ NO ☒PRE TO POST JUNE 18, 2007 VIOLATION YES ☐ NO ☒**IV. MITIGATION INFORMATION**

FOR FINAL ACCEPTED MITIGATION PLAN:

MITIGATION PLAN NO.

MIT-09-2992

DATE SUBMITTED TO REGIONAL ENTITY

10/14/10

DATE ACCEPTED BY REGIONAL ENTITY

11/10/10

DATE APPROVED BY NERC

12/13/10

DATE PROVIDED TO FERC

12/14/10

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IDENTIFY AND EXPLAIN ALL PRIOR VERSIONS THAT WERE ACCEPTED OR REJECTED, IF APPLICABLE

On February 10, 2010, URE submitted a Mitigation Plan followed by its Certification of Mitigation Plan Completion submitted on March 15, 2010. The WECC SME reviewed URE's Completed Mitigation Plan as well as evidence demonstrating completion as of March 15, 2010. The WECC SME originally accepted URE's completed Mitigation Plan and Certification of Mitigation Completion on June 23, 2010. WECC Enforcement reviewed URE's Mitigation Plan on August 1, 2010 and determined that the WECC SME erred in accepting URE's Completed Mitigation Plan. URE had failed to demonstrate mitigation of the violation because all identified PSPs did not constitute a "six-walled" border. Accordingly, WECC sent URE a letter on September 15, 2010 requesting URE revise its Mitigation Plan to include the full scope of mitigation action taken.

MITIGATION PLAN COMPLETED YES ☒ NO ☐

EXPECTED COMPLETION DATE Submitted as complete

EXTENSIONS GRANTED

ACTUAL COMPLETION DATE 9/21/10⁵

DATE OF CERTIFICATION LETTER 10/6/10⁶

CERTIFIED COMPLETE BY REGISTERED ENTITY AS OF 9/21/10⁷

DATE OF VERIFICATION LETTER 11/10/10

VERIFIED COMPLETE BY REGIONAL ENTITY AS OF 9/21/10

ACTIONS TAKEN TO MITIGATE THE ISSUE AND PREVENT RECURRENCE

- **Six individual PSPs were established within the facility perimeter fence.**
- **Five individual PSPs were established to contain the five CCAs**
- **Each PSP restricts access to the CCA therein**
- **Locks were changed to further restrict access to the controlled keys.**
- **Four additional cameras were installed to provide complete coverage for the perimeter fence and within the facility's yard. (Completed**

⁵ URE voluntarily submitted a revised Mitigation Plan to include all mitigation undertaken after March 15, 2010. Action on the original Mitigation Plan was completed as of March 15, 2010. The Mitigation Plan submitted in October included a more complete description of URE's mitigation action including documentation revisions.

⁶ The Certification of Mitigation Plan Completion Letter is dated October 6, 2010, but was not submitted until October 14, 2010.

⁷ The Certification of Mitigation Plan Completion lists an incorrect completion date of March 15, 2010, which was the completion date of the previously rejected Mitigation Plan.

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3/5/2010) These cameras are monitored 24/7 by the security operations center.

- **Badge readers were added to the two main perimeter fence gates. These readers act as the identification mechanism for those accessing the facility's yard. (Completed 3/10/2010)**
- **Gate position sensors were added to the two main perimeter fence gates. A direct connect "push-button" phone was also added to the main vehicle entry gate to allow direct, communication with the security operations center. The badge readers and gate position switches are monitored 24/7 by the URE's security operations center. (Completed on 3/10/2010)**
- **Three perimeter fence gates which were no longer required for access to the site were welded shut. (Completed 3/10/2010)**
- **The operational vehicle access gate on east side of perimeter is locked and has gate position sensors in place to alarm when gate is opened. (Completed 3/10/2010)**
- **Finally, URE revised its Physical Security Plan, and Physical Security process and policies, to correctly define "PSP" as a "six-walled" border with controlled access. (Completed 9/21/10)**

LIST OF EVIDENCE REVIEWED BY REGIONAL ENTITY TO EVALUATE COMPLETION OF MITIGATION PLAN (FOR CASES IN WHICH MITIGATION IS NOT YET COMPLETED, LIST EVIDENCE REVIEWED FOR COMPLETED MILESTONES)

- **Training presentation provided to SMEs, Class attendance sheet**
- **PSP Documentation**
 - **Pre-mitigation location of PSPs and CCAs**
 - **Post mitigation location of individual PSPs**
- **Evidence of completed milestone activity**
 - **Project tracker task list indicating tasks, vendors, and completion dates**
 - **Photograph of CCAs enclosure lock and Corporate Security notice on CCA enclosure**
 - **Photograph of CCA door tamper switch**
 - **Photograph of welded portion of gate**
 - **Photograph of gate position sensors, card reader, and direct dial phone.**
 - **"Receiving Document" for delivery of 4 added cameras**
 - **Receipt for CCA enclosures locks and tamper switches**
 - **Emails indicating completion of locks and document updates**

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V. PENALTY INFORMATION

TOTAL ASSESSED PENALTY OR SANCTION OF **\$7,000** FOR **ONE** VIOLATION OF RELIABILITY STANDARDS.

(1) REGISTERED ENTITY'S COMPLIANCE HISTORY

PREVIOUSLY FILED VIOLATIONS OF ANY OF THE INSTANT
RELIABILITY STANDARD(S) OR REQUIREMENT(S) THEREUNDER

YES ☐ NO ☐

LIST VIOLATIONS AND STATUS

ADDITIONAL COMMENTS

PREVIOUSLY FILED VIOLATIONS OF OTHER RELIABILITY
STANDARD(S) OR REQUIREMENTS THEREUNDER

YES ☐ NO ☐

LIST VIOLATIONS AND STATUS

ADDITIONAL COMMENTS

**(2) THE DEGREE AND QUALITY OF COOPERATION BY THE REGISTERED
ENTITY (IF THE RESPONSE TO FULL COOPERATION IS "NO," THE
ABBREVIATED NOP FORM MAY NOT BE USED.)**

FULL COOPERATION
IF NO, EXPLAIN

YES ☒ NO ☐

**(3) THE PRESENCE AND QUALITY OF THE REGISTERED ENTITY'S
COMPLIANCE PROGRAM**

IS THERE A DOCUMENTED COMPLIANCE PROGRAM

YES ☒ NO ☐ UNDETERMINED ☐

EXPLAIN

**WECC reviewed URE's Internal Compliance Program (ICP), in place
at the time of the violation, and found it to be a mitigating factor in
determining the penalty.**

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EXPLAIN SENIOR MANAGEMENT'S ROLE AND INVOLVEMENT WITH RESPECT TO THE REGISTERED ENTITY'S COMPLIANCE PROGRAM, INCLUDING WHETHER SENIOR MANAGEMENT TAKES ACTIONS THAT SUPPORT THE COMPLIANCE PROGRAM, SUCH AS TRAINING, COMPLIANCE AS A FACTOR IN EMPLOYEE EVALUATIONS, OR OTHERWISE.

(4) ANY ATTEMPT BY THE REGISTERED ENTITY TO CONCEAL THE VIOLATION(S) OR INFORMATION NEEDED TO REVIEW, EVALUATE OR INVESTIGATE THE VIOLATION.

YES ☐ NO ☒
IF YES, EXPLAIN

(5) ANY EVIDENCE THE VIOLATION(S) WERE INTENTIONAL (IF THE RESPONSE IS "YES," THE ABBREVIATED NOP FORM MAY NOT BE USED.)

YES ☐ NO ☒
IF YES, EXPLAIN

(6) ANY OTHER MITIGATING FACTORS FOR CONSIDERATION

YES ☐ NO ☒
IF YES, EXPLAIN

(7) ANY OTHER AGGRAVATING FACTORS FOR CONSIDERATION

YES ☐ NO ☒
IF YES, EXPLAIN

(8) ANY OTHER EXTENUATING CIRCUMSTANCES

YES ☐ NO ☒
IF YES, EXPLAIN

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EXHIBITS:

SOURCE DOCUMENT
URE's Self-Certification

MITIGATION PLAN
URE's Revised Mitigation Plan MIT-09-2992

CERTIFICATION BY REGISTERED ENTITY
URE's Certification of Mitigation Plan Completion

VERIFICATION BY REGIONAL ENTITY
WECC's Verification of Mitigation Plan Completion

OTHER RELEVANT INFORMATION:

NOTICE OF ALLEGED VIOLATION AND PROPOSED PENALTY OR
SANCTION ISSUED

DATE: **9/16/10** OR N/A ☐

SETTLEMENT REQUEST DATE

DATE: **10/29/10** OR N/A ☐

NOTICE OF CONFIRMED VIOLATION ISSUED

DATE: OR N/A ☒

SUPPLEMENTAL RECORD INFORMATION

DATE(S) OR N/A ☒

REGISTERED ENTITY RESPONSE CONTESTED

FINDINGS ☐ PENALTY ☐ BOTH ☐ DID NOT CONTEST ☒

HEARING REQUESTED

YES ☐ NO ☒

DATE

OUTCOME

APPEAL REQUESTED

Document Content(s)

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