

NERC

NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

NERC Regional Entity Agreed Upon Procedures Spot Check Report Texas Reliability Entity, Inc.

RELIABILITY | ACCOUNTABILITY



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Executive Summary

Overview

In accordance with the Federal Energy Regulatory Commission's (FERC or Commission) Order No. 672, Paragraph 773,¹ the North American Electric Reliability Corporation (NERC) developed a program to audit the Regional Entities' (RE) adherence to the NERC Rules of Procedures (RoP), the Compliance Monitoring and Enforcement Program (CMEP) and the requirements of the Regional Delegation Agreement (RDA). Additional requirements concerning the RE Audit Program attributes are contained in the RoP Section 402.1.3.²

The NERC RE Audit Program consisted of Agreed-Upon Procedures (AUP)³ developed by NERC in partnership with an independent auditing firm, Crowe Horwath, LLP (Crowe). In 2009 and 2010, NERC completed initial audit activities of five of the eight REs.⁴

Following these initial audit activities, NERC reviewed lessons learned and revised the performance criteria of the RE Audit Program for efficiency and effectiveness. NERC developed the AUP Spot Check Program for the remaining three REs: Texas Reliability Entity, Inc. (Texas RE), Florida Reliability Coordinating Council, Inc., (FRCC), and Western Electricity Coordinating Council (WECC).

¹ See *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards*, FERC Stats. & Regs., ¶ 31,204 at P 773 ("Order No. 672"), order on reh'g, FERC Stats. & Regs. ¶ 31,212 (2006) ("Order No. 672-A") ("We contemplate that a compliance audit of the ERO would typically involve an examination of the ERO's ongoing compliance with statutory and regulatory criteria for certification and its performance in carrying out its responsibility to oversee the compliance with and enforcement of Reliability Standards. The Commission, however, maintains the flexibility to determine the applicable scope of a particular audit. The Final Rule eliminates the proposed periodic Commission compliance audit of each Regional Entity. Instead, we require the ERO periodically to audit each Regional Entity's ongoing compliance with relevant statutory and regulatory criteria and performance in enforcing Reliability Standards and report the results to the Commission.").

² See NERC Rules of Procedure at § 402.1.3.

³ An Attestation of an Agreed-Upon Procedure is an engagement relating to Agreed-Upon Procedures (criteria for auditing) to specified elements or accounts. Agreed-Upon Procedures are an engagement with an accounting firm that is hired to issue a report of findings (attestation) based on specified criteria. The user of the report, in this case NERC, agrees upon the procedures to be conducted by the accountant that NERC believes are suitable to the requirements. NERC takes responsibility for the adequacy of the procedures. In this engagement, the accountant does not express an opinion or negative assurance. Instead, the report is in the form of procedures and findings.

⁴ The initial audit activities completed for five of the NERC Regional Entities include: Midwest Reliability Organization (MRO), Northeast Power Coordinating Council, Inc. (NPCC), ReliabilityFirst Corporation (RFC), SERC Reliability Corporation (SERC), Southwest Power Pool, Regional Entity (SPP). On October 21, 2010, the Commission issued an order approving NERC's pro forma Delegation Agreement, the revised Delegation Agreements with the Regional Entities, changes to the Rules of Procedure and certain Bylaws. *North American Electric Reliability Corporation*, 133 FERC ¶ 61,061 (2010). In that order, the Commission stated its expectation that the initial audits will be concluded by the end of 2011. *Id.* at P 28. The Commission also requested that NERC provide its expected completion date of the second round of audits. *Id.* The AUP reports are posted on NERC's web site. See <http://www.nerc.com/page.php?cid=3|26|349>.

NERC issued a letter and AUP Self-Certification questionnaire to Texas RE, WECC, and FRCC on November 2, 2010. The referenced REs completed and submitted their AUP Self-Certification of compliance by January 31, 2011. The AUP Self-Certification is located in Appendix A of this report.

NERC evaluated the performance of the REs by assessing their policies, procedures, evidence of performance, and interviewing subject matter experts. NERC documented the findings from the referenced AUP Spot Checks in the respective RE AUP Spot Check Exit Briefings and Audit Reports.

The NERC AUP Spot Check of Texas RE was held at Texas RE's headquarters in Austin, Texas, March 1, 2011 through March 3, 2011. The NERC Audit Team was comprised of two auditors from the Audit Assurance and Oversight Department and one attorney from the Legal Department.

Texas RE staff was very accommodating to the needs of the audit team. Texas RE staff provided all pre-audit information requested on or before the due date and worked diligently to provide supplemental information requested by the audit team while onsite, in a timely manner.

Findings

The NERC Audit Team identified six positive observations, two exceptions, and two recommendations. Detailed results of the NERC Audit Team findings for Texas RE are contained in Chapter 4 of this report.

AUP Spot Check Development

AUP Spot Check Audit Plan

NERC developed an audit plan⁵ for performing the AUP Spot Check Program (Audit Plan). The five components of the Audit Plan were:

1. Objective
2. Risk
3. Scope
4. Methodology
5. Identifying Audit Criteria

Objective

The AUP Spot Check Objective⁶ (Audit Objective) was to verify RE compliance with the RoP, CMEP, and RDA based on a list of common issues identified from the RE Audit Program. NERC considered significance and risk when developing its list of common issues for the AUP Spot Check Program.

Risk

NERC's assessment of Audit Risk⁷ identified that an assessment of the REs' processes and procedures may not detect inconsistency in the supporting evidence. Also, documents presented during the audit may contain inaccuracies.

To reduce the audit risk, the Audit Plan included:

- Self-Certification of compliance from the REs
- Review of REs Self-Certification responses and modifications to audit scope, where applicable
- Requests for information and analysis of sampled evidence
- Interviews with RE subject matter experts
- Additional requests for information, where applicable

⁵ See *United States Government Accountability Office Government Auditing Standards* - Chapter 7 Field Work Standards for Performance Audits-Planning.

⁶ See *United States Government Accountability Office Government Auditing Standards* - Chapter 7 Field Work Standards for Performance Audits-Planning, Section 7.08.

⁷ See *United States Government Accountability Office Government Auditing Standards* - Chapter 7 Field Work Standards for Performance Audits-Audit Risk, Section 7.05.

Scope

The AUP Spot Check Scope (Audit Scope)⁸ was developed by NERC based on the components and results of the RE Audit Program, but with a narrower focus. The Audit Scope included the following areas:

- Data Retention and Confidentiality Procedures
- Independence Procedures
 - Organizational Independence
 - Conflict of Interest
- Reporting to NERC
- Registration
- Compliance Activities
 - Compliance Audit Policies and Procedures
 - Compliance Audit Reports
 - Registered Entity Function
 - Reliability Standard Auditor Worksheets Documentation
- Registered Entity Reporting
 - Self-Certification
 - Exception Reporting
 - Self-Reporting
 - Periodic Data Submittals
- Compliance Investigations
 - Compliance Violation Investigations
 - Complaints
- Notices of Violations
 - Possible Violations
 - Alleged Violations
 - Notices of Confirmed Violations
 - Dismissals
- Penalties, Sanctions, and Settlements
- Mitigation Plans

Methodology

NERC developed its audit methodology⁹ to support the AUP Spot Check Audit Objective (Audit Objective). The audit methodology was consistent with AUP procedures and was used both to determine and analyze the set of evidence. The methodology documentation included the AUP Spot Check Self-Certification and three requests for information prior to the onsite audit.

⁸ See *United States Government Accountability Office Government Auditing Standards* - Chapter 7 Field Work Standards for Performance Audits-Planning.

⁹ See *United States Government Accountability Office Government Auditing Standards* - Chapter 7 Field Work Standards for Performance Audits-Planning, Section 7.06.

Identifying Audit Criteria¹⁰

The criteria for the AUP Spot Check are contained within the language of RoP, CMEP and RDA. In conjunction with the Crowe AUP, NERC identified objective and quantitative language within the referenced documents to establish its evaluation criteria. NERC further evaluated the performance of the REs by identifying subjective and qualitative language within the referenced documents. NERC then analyzed and evaluated the REs evidence to determine positive observations, exceptions, and recommendations.

¹⁰ See *United States Government Accountability Office Government Auditing Standards - Chapter 7 Field Work Standards for Performance Audits-Identifying Audit Criteria*, Section 7.37.

AUP Spot Check Implementation

Prior to On-site Audit

NERC analyzed Texas RE's completed AUP Spot Check Questionnaire prior to the onsite audit. NERC used the Crowe AUPs as a reference as well as the ROP and CMEP. NERC identified responses requiring further discussion or data request. This analysis results included:

1. Self-identified exceptions
2. Responses required further questions
3. Other items identified by NERC Audit Team

Actions completed as a result of NERC's analysis included:

1. Revised the Spot Check audit scope
2. Revised the AUP matrix
3. Developed focused audit questions
4. Identified items requiring further data
5. Revised Requests for Information (RFIs)

NERC sent Texas RE three RFIs on February 27, 2011. RFI Part 1 (General Sample Population) requested a listing of items from the AUP categories for random sampling of selected test items used for the audit. RFI Part 2 contained request for Texas's internal procedures. Texas RE provided the documentation requested outlined in RFI Part 3 when NERC identified the sample test items on February 27, 2011.

NERC referenced key documents in performing its evaluation of Texas RE's completed data request. NERC referred to the Crowe AUPs to ensure consistency and the RoP and CMEP to evaluate compliance.

During and After On-site Audit

The NERC AUP Spot Check was held at Texas RE's headquarters, March 1, 2011 through March 3, 2011. The NERC Audit Team provided Texas RE an overview of the Spot Check process. The NERC Audit Team requested and received additional information and sought clarification from subject matter experts during the audit. The NERC staff held interviews with key Texas RE personnel to validate evidence presented.

The NERC auditors used their professional judgment,¹¹ auditing skills, and experience to determine the sufficiency of the evidence, whether the evidence was appropriate to support the findings and met the Spot Check objective.¹²

While on-site, NERC provided a status of the Spot Check to Texas RE's key personnel. The status update included a review of:

- Completed activities for the day
- Planned activities for the following day
- Open request for information items
- Positive observations and recommendations

After completion of the on-site audit process, the audit team further reviewed Texas RE documentation prior to making a final determination of its findings. NERC performed this additional review of the evidence for sufficiency and appropriateness to provide reasonable assurance¹³ of the findings. NERC provided Texas RE a final presentation of its AUP Spot Check results on May 18, 2011.

¹¹ See *United States Government Accountability Office Government Auditing Standards* - Chapter 3, General Standards, Professional Judgment, Sections 3.31-3.39.

¹² See *United States Government Accountability Office Government Auditing Standards* - Chapter 7 Field Work Standards for Performance Audits, Sections 7.55-7.65.

¹³ See *United States Government Accountability Office Government Auditing Standards* - Chapter 7 Field Work Standards for Performance Audits, Reasonable Assurance, Section 7.03.

AUP Spot Check Findings

NERC defined three classifications of audit results, Positive Observations, Findings and Recommendations for the AUP Spot Check.

1. Positive Observations
 - Consideration of and comparison to noteworthy practices applicable to all REs
2. Findings
 - Possible exceptions where documentation was inconsistent with NERC RoP or CMEP (considerations: versions, filings and FERC Orders, and documented process exceptions)
 - Validated RE self-identified exceptions as indicated in the Self-Certifications (considerations: whether a gap existed during 2011 Spot Check as evidenced by sample and were there controls in place)
3. Recommendations
 - Variations from Crowe AUP approach, opportunities to develop controls, or need to improve documentation.

Positive Observations

The NERC Audit Team considered certain Texas RE practices to be noteworthy and applicable to all of the REs.

NERC identified six positive observations:

1. Texas RE completes its final compliance audit reports within sixty days. Accordingly, Texas RE management assesses its compliance auditors' performance using this metric.
2. Texas RE has recently updated several internal procedures to clearly describe roles and responsibilities, as well as the timelines for completion of critical tasks, in a manner consistent with the CMEP and RoP. For example, the Compliance Audit Desk Procedure includes all steps needed to start and complete a compliance audit of registrants.
3. Texas RE includes with its audit notification letter to the registered entity, training records for each of the audit team members.
4. The *Confirmation of Settlement Discussion* letter issued by Texas RE is well-drafted and indicates the registered entity's authorized settlement negotiator by name and title, contained in *Appendix C* of this report.
5. Texas RE's legal staff is responsible to track and review each employee *Human Resources Review of Conflict of Interest Statements* to verify that no conflict of interest exists.
6. Texas RE uses a robust process for tracking compliance audit reports from the initial draft to final public posting. This process includes documenting the correspondence between Texas RE staff and registered entities. This report tracking template is contained in *Appendix B* of this report.

Findings

The NERC Audit Team identified two possible exceptions during the site visit in the areas of (1) Periodic Data Submittals and (2) Reporting to NERC:

(1) Periodic Data Submittals

The CMEP, Section 3.6.1, Periodic Data Submittals states:

“The process steps for Periodic Data Submittal are as follows:

- The Compliance Enforcement Authority posts the current data reporting schedule on its web site and keeps Registered Entities informed of changes and/or updates. The Compliance Enforcement Authority ensures that the appropriate Reliability Standard compliance procedures and the required submittal forms for the Reliability Standards being evaluated are maintained and available via its web site.*
- The Compliance Enforcement Authority makes a request for a Periodic Data Submittal.*
- The Registered Entity provides the required information to the Compliance Enforcement Authority in the format as specified in the request.*
- The Compliance Enforcement Authority reviews the data submittal to determine compliance with the Reliability Standards and may request additional data and/or information for a complete assessment or to demonstrate compliance.*
- If the Compliance Enforcement Authority’s assessment of the Registered Entity’s compliance indicates there may be a Possible Violation, the Compliance Enforcement Authority provides an opportunity for the Registered Entity to comment on the assessment before it is finalized...”*

In 2010, Texas RE sent one of its registered entities an annual periodic data submittal for TPL-001-0.1 R1, TPL-002-0 R1, TPL-003-0 R1 and TPL-004-0 R1. The data submittal due date was November 15, 2010. On March 1, 2011, the NERC Audit Team discovered that this registered entity had not provided the referenced data submittal to Texas RE. On March 1, 2011, Texas RE sent another request to this registered entity for the required information.

(2) Reporting to NERC

The CMEP, Section 8, Reporting and Disclosure states:

“Regional Entities shall report all Possible Violations, Alleged Violations and Confirmed Violations to NERC by promptly entering the Possible Violation, Alleged Violation or Confirmed Violation into the NERC compliance reporting and tracking system....”

While reviewing the Self-Certification items under *Reporting to NERC* section, the NERC Audit Team identified that Texas RE had discovered a possible violation of a registered entity. The date of the possible violation was January 31, 2011. This possible violation had not been reported to NERC at the time of the AUP Spot Check. The RoP and CMEP require prompt reporting of possible violations to NERC.

Recommendations

The NERC Audit Team made recommendations to Texas RE to improve processes, procedures, or policies that varied from the Crowe AUP approach, develop controls, or otherwise improve documentation.

The NERC Audit Team identified two recommendations:

1. Texas RE should develop internal controls to ensure NERC is notified of compliance monitoring and enforcement items within the specified timelines. Specifically:
 - Receipt of all Self-Certification and Periodic Data Submittals
 - Settlement Initiation Discussions
 - Notifying NERC of Possible Violations
2. Texas RE should finalize its internal draft procedures. Although Texas RE has developed internal procedures, the NERC Audit Team noted procedures marked as draft, which Texas RE considered effective for its employees. Examples include:
 - Registration Corporate Procedure
 - Mitigation Plan Procedure

Regional Entity Improvements

During and after the course of the AUP Spot Check process, Texas RE implemented improvements in the areas recommended by the NERC Audit Team. The following improvements are responsive to the Findings and Recommendations herein:

Findings

Periodic Data Submittal Exception- Texas RE sent another request to the entity for the required information on March 1, 2011. The entity submitted a response on March 11, 2011, and at the request of Texas RE submitted additional information to Texas RE on April 4, 2011 and June 28, 2011. Texas RE will complete its assessment of the entity's compliance and promptly report any possible violations to NERC.

Reporting to NERC- Texas RE reported the referenced possible violation to NERC on the third day of the site visit.

Recommendations

Texas RE is implementing all audit recommendations as follows:

1. Texas RE has developed and is implementing additional internal controls to ensure NERC is notified of compliance monitoring and enforcement items within the specified timelines. On August 1, 2011, Texas RE began phasing in a new CMEP communications and tracking application (Open Access Technology, Inc.'s Compliance Data Management System or "CDMS"). The application is designed to substantially strengthen and enhance Texas RE's internal controls and automate many processes, procedures and notifications. Until the transition to the OATI system (which has certain notifications included and will replace the many separate spreadsheets that Texas RE is required to maintain currently), Texas RE is taking the following steps:
 - Receipt of all Self-Certification and Periodic Data Submittals – Texas RE has implemented a process of having a second employee maintain a spreadsheet and double check to confirm that all periodic data submittals are timely received and reviewed. This double check process will also be used for Self-Certifications. This manual process will be used until these processes are automated using the new OATI system.
 - Settlement Initiation Discussions – Texas RE will update its internal procedures to ensure that its employees are aware that Texas RE must promptly notify NERC when an entity has requested settlement.
 - Notifying NERC of Possible Violations – Until the CDMS application can synchronize with NERC's Compliance Reporting and Tracking System (C-RATS), (expected this fall), a second Texas RE employee is running computer queries each week to verify that items contained in Texas RE internal spreadsheets from the prior week were promptly reported using the Linear Tool.

2. Texas RE finalized its Registration desk procedure on June 22, 2011, and its Mitigation Plan desk procedure on July 6, 2011.

Conclusion

The NERC Audit Team used their professional and auditing skills and experience to determine the sufficiency and appropriateness of evidence to support the findings and meet the AUP Spot Check Objective. After reviewing Texas RE's Self Certification responses and sampled evidence, and a site visit including interviews with Texas RE staff, the NERC Audit Team identified six positive observations, two exceptions, and two recommendations. NERC's assessment of the results of the AUP Spot Check Program for Texas RE is contained herein.

Appendix A – 2010 Agreed-Upon Procedures Regional Self-Certification

IMPLEMENTATION PLANS

None

DATA RETENTION AND CONFIDENTIALITY PROCEDURES

1. Do you have a records management and data retention procedure for compliance-related records?

Response:

[Redacted]

- a. If you do not have a written procedure, describe your policy for records management and data retention of compliance-related records?

Response:

[Redacted]

2. Do you have a written procedure for maintaining the confidentiality of data and information obtained through compliance activities? (CMEP 9.3)

Response:

[Redacted]

- a. If you do not have a written procedure, explain your process for maintaining the confidentiality of data and information obtained through compliance activities.

Response:

[Redacted]

3. Do you have a written policy for maintaining the confidentiality of data and information provided by entities in the process of becoming registered or certified?

Response:

[Redacted]

- a. If you do not have a written procedure, explain your process for maintaining the confidentiality of data and information provided by entities in the process of becoming registered or certified.

Response:

[Redacted]

4. Do you have written policies or procedures for providing copies of audit team members' non-disclosure agreements to Registered Entities prior to a Compliance Audit?

Response:

[REDACTED]

5. Have you received any requests from third parties since January 1, 2009 for information that was deemed confidential? (RoP 1503.7)

Response:

[REDACTED]

- a. If so, please list all requests for confidential information you have received.

Response:

[REDACTED]

6. Have you denied any requests for confidential information from third parties since January 1, 2009?

Response:

[REDACTED]

- a. If so, please provide a copy of the public posting of the denied request.

Response:

[REDACTED]

INDEPENDENCE PROCEDURES

1. How do you maintain the independence of compliance and enforcement decisions from other activities within your organization?

Response:

[REDACTED]

2. Do you have a written conflict of interest policy or procedure for such conflicts pertaining to Board members, executives, employees, and contractors?

Response:

[REDACTED]

- b. If so, does the policy or procedure contain provisions for the review of conflict of interest statements and disclosures?

Provide evidence that you reviewed conflict of interest statements and disclosures.

Response:

[Redacted]

- c. If so, does the policy or procedure contain provisions for the monitoring of compliance with the conflict of interest policies?

Provide evidence that you have monitored conflict of interest with respect to the Board members, executives, employees, and contractors.

Response:

[Redacted]

3. Have you discovered any conflicts of interests that existed either during or after a compliance action?

Please describe the referenced conflicts and associated resolutions.

Response:

[Redacted]

4. Have there been any instances where Board members, executives, and stakeholder committee members were removed or recused themselves from compliance duties because of a conflict of interest?

Response:

[Redacted]

- a. If so, please explain the circumstances surrounding each instance.

Response:

[Redacted]

5. Have you had an independent consultant work for your compliance enforcement program, who received compensation from a BPS owner, operator, or user within the preceding six (6) months of the consultant's date of hire?

Response:

[Redacted]

6. Do you have signed Work History and Conflict of Interest Questionnaires for independent consultants?

Response:

[Redacted]

INFORMATION SYSTEMS

None

REPORTING TO NERC

1. Has a Registered Entity requested a hearing concerning an alleged violation?

Please describe how you responded to the hearing request and the resolution of the alleged violation.

Response:

[Redacted]

2. Have you on any occasion sent a notification of accepted Mitigation Plan to NERC more than five (5) business days after the date you accepted the Registered Entity's Mitigation Plan?

Response:

[Redacted]

3. Have you on any occasion provided the accepted Mitigation Plan to NERC more than five (5) business days after the date you accepted the Registered Entity's Mitigation Plan?

Response:

[Redacted]

4. Do you have a written policy or procedure requiring that you must (i) notify and (ii) provide an accepted Mitigation Plan to NERC within five (5) business days of the Registered Entity's acceptance of the Mitigation Plan?

Response:

[Redacted]

- d. If not, do you have any conflicting practices, policies, or procedures that would prevent you from providing the referenced accepted Mitigation Plan to NERC within the requisite five (5) business days?

Response:

[Redacted]

5. Have you on any occasion not received from a Registered Entity, certification that all required actions described in its Mitigation Plan had been completed?

Please describe the actions you took to remedy the situation.

Response:

- [REDACTED]
6. Did you report all allegations or evidence of violations (other than those that resulted in or has the potential to result in, a reduced level of reliability to the bulk power system - which require 48 hour notification) within five (5) business days?

Response:

[REDACTED]

REGISTRATION

1. Do you have a written regional Organization Registration Policy?

Response:

- [REDACTED]
2. Does your Organization Registration Policy document reference critical energy infrastructure information?

Response:

- [REDACTED]
3. Provide a description of your process for determining and verifying whether an entity should be registered for a reliability function.

Response:

- [REDACTED]
4. Have you documented your verification of the Registered Entity's reliability function during the referenced registration process?

Response:

- [REDACTED]
5. Have you encountered an organization, from January 1, 2009 to the present, which was not included in the compliance registry but should have been?

Response:

- [REDACTED]
6. Do you have documentation that all Registered Entities met the necessary criteria for registration?

Response:

- [REDACTED]
- e. If so, does the referenced documentation describe the manner in which the Registered Entities met the necessary criteria for registration?

Response:

[Redacted]

CERTIFICATION

None

COMPLIANCE ACTIVITIES

1. Do you have a written policy or procedure for providing audit team member notification and employment history to Registered Entities at least two months prior to the commencement of an on-site audit?

Response:

[Redacted]

2. Did you provide to the Registered Entity the audit team member notification and employment history at least two months prior to the commencement of an on-site audit?

Response:

[Redacted]

- a. If so, please provide a copy of the notifications provided to the Registered Entity along with evidence of the date provided.

Response:

[Redacted]

3. During the course of all audits, from January 1, 2009 to the present, did you provide audit materials to all Compliance Audit participants?

Note: "Compliance Audit participants" includes both Registered Entity personnel and audit team members participating in the Compliance Audit.

Response:

[Redacted]

4. Did audit team members participating in Compliance Audits, from January 1, 2009 to the present, complete the required auditor training prior to the start of the audit?

Response:

[Redacted]

5. Did all Compliance Audit reports include information on supervisory reviews, as required by the Compliance Auditor Manual?

Response:

- [REDACTED]
6. Did you provide a copy of the draft assessment from the Compliance Audit to the Registered Entity for comment prior to your issuing a report of the audit results?

Response:

- [REDACTED]
7. Did you complete and document the assessment of the Registered Entity for compliance with the Reliability Standards and provide a report to the Registered Entity indicating the audit results?

Response:

- [REDACTED]
8. Did you document your review of the audit report developed by the audit team?

Response:

- [REDACTED]
9. Have you performed an unscheduled Compliance Audit any time from January 1, 2009 to the present?

Response:

- [REDACTED]
10. During the course of an audit, has an audit team discovered that a Registered Entity performed functions for which it was not registered?

Response:

- [REDACTED]
11. During the course of an audit, has an audit team discovered a Registered Entity was registered for functions for which it should not have been registered?

Response:

- [REDACTED]
12. If you answered yes to either Question Nos. 10 or 11 above, please explain the process used to resolve the discrepancy.

Response:

- [REDACTED]
13. Have you always used the NERC Reliability Standard Audit Worksheets (RSAWs) to document the Registered Entity's compliance with the Reliability Standards?

Response:

[REDACTED]

14. Did you complete the auditor notes document or auditor report for each NERC Reliability Standard requirement stated in the RSAW?

Response:

[REDACTED]

f. If so, did you provide a reference to supporting documentation for each NERC Reliability Standard requirement stated in the RSAW?

Response:

[REDACTED]

15. During the course of an audit have you documented all identified non-compliance and related evidence of compliance, presented by the Registered Entity, on the RSAW?

Response:

[REDACTED]

g. If so (in response to question no. 15), have you always completed the RSAW checklist items?

Response:

[REDACTED]

h. If so (in response to question no. 15), have you always included statements of compliance with the requirements of the RSAWs?

Response:

[REDACTED]

i. If so (in response to question no. 15), have you included supporting documentation or a description of the documentation that was reviewed?

Response:

[REDACTED]

REGISTERED ENTITY REPORTING

1. Do you have a written procedure which addresses the requesting, obtaining, and reviewing self-certifications from Registered Entities?

Response:

[REDACTED]

- a. Describe your process in the event that a Registered Entity fails to submit a timely self-certification.

Response:

[REDACTED]

2. Do you have a written policy which addresses the requesting, obtaining, and reviewing Periodic Data Submittals from Registered Entities?

Response:

[REDACTED]

3. Did you make a request to all Registered Entities for Periodic Data Submittals from January 1, 2009 to the present, in accordance with the schedule stated in the applicable Reliability Standards?

Response:

[REDACTED]

4. Did you document your receipt of the referenced Periodic Data Submittal from the Registered Entity?

Response:

[REDACTED]

5. Did you review the Periodic Data Submittals from all Registered Entities to determine compliance with the Reliability Standards?

Response:

[REDACTED]

6. Did you document a draft assessment of the Registered Entities' compliance with respect to the Periodic Data Submittals?

Response:

[REDACTED]

- a. If so, did you provide an opportunity for the Registered Entities to comment on the assessment before it was finalized?

Response:

[REDACTED]

7. Did you notify the Registered Entities that your assessment of the Registered Entities' compliance with the Reliability Standard, with respect to Periodic Data Submittals, was complete?

Response:

[REDACTED]

8. Do you have a written policy which addresses the requesting, obtaining, and reviewing Exception Reports from Registered Entities?

Response:

[Redacted]

9. Did you make a request to all Registered Entities for Exception Reports from January 1, 2009 to the present, in accordance with the schedule stated in the applicable Reliability Standards?

Response:

[Redacted]

COMPLIANCE INVESTIGATION PROCEDURES

1. Do you have written policies which address initiating compliance violation investigations (CVIs)?

Response:

[Redacted]

2. Do you have written policies that address Registered Entity complaints with the conduct of CVIs?

Response:

[Redacted]

3. Did your request for data or documentation to all Registered Entities provide at least twenty (20) days advance notice?

Response:

[Redacted]

NOTICES OF VIOLATIONS

1. How many violations of Reliability Standards have you processed as Notice of Confirmed Violations or Settlement Agreements, since January 1, 2009?

Response:

[Redacted]

- j. If so, did you in each instance provide a written notice of Alleged Violation and sanction (signed by an officer or designee) to the Registered Entity (CEO or equivalent and compliance contact) and NERC?

Response:

[Redacted]

2. How many possible violations were discovered from January 1, 2009 to the present (please count possible violations for each calendar year)?

Response:

[Redacted]

3. What was the average time it took from the determination of a possible violation to the time when the violation was dismissed, reached settlement, or the Registered Entity received a Notice of Alleged Violation and Penalties and Sanction?

Response:

[Redacted]

4. Did you have documentation that the Registered Entity initiated settlement and the date that settlement discussions commenced?

Response:

[Redacted]

PENALTIES, SANCTIONS, AND SETTLEMENTS

1. Did you obtain documentation from the Registered Entity stating the name of the authorized negotiator for the settlement process for all settlement discussions, from January 1, 2009 to the present?

Response:

[Redacted]

MITIGATION PLANS

1. How many Mitigation Plans did you receive from January 1, 2009 to the present?

Response:

[Redacted]

2. How many Mitigation Plans did you approve during the referenced period?

Response:

[Redacted]

3. How many Mitigation Plans were remanded back to the Registered Entity during the referenced period?

Response:

[Redacted]

4. What was the average time it took from receiving a Mitigation Plan to approval of the Mitigation Plan during the referenced period?

Response:

[Redacted]

5. Did you include a review of the status of Mitigation Plans during on-site audits? (CMEP 6.6)

Response:

[Redacted]

6. Did you include a review of evidence for Mitigation Plan completion during on-site audits?

Response:

[Redacted]

7. What is your process for confirming or validating evidence that a Mitigation Plan is complete?

Response:

[Redacted]

8. Do you have documentation that all required actions described in the Mitigation Plan were completed by the Registered Entity for all Registered Entities in your region that completed a Mitigation Plan during the referenced period?

Response:

[Redacted]

9. Can you provide documentation of a review of Mitigation Plans for completeness and sufficiency, as specified in NERC's Mitigation Plan Approval?

Response:

[Redacted]

REMEDIAL ACTIONS

None

HEARINGS

None

ERO FUNCTIONAL REQUIREMENTS

None

Appendix C – Confirmation of Settlement Discussions

[Texas RE Letterhead]

Confirmation of Settlement Discussions

[Date]

[Registered Entity Negotiator Company]
[Negotiator Contact Name]

[Registered Entity Negotiator Company]
[Negotiator Contact Name]

Re: Confirmation of Settlement Discussions

Texas Regional Entity (Texas RE) received a request for settlement discussions from [Name, Registered Entity] regarding Violation Numbers via email on June 24, 2010. This letter is to confirm said discussions. A notice of settlement discussions will be submitted to NERC. Please be advised that during the settlement discussions [Registered Entity] must continue to preserve all relevant documents.

In pursuit of a possible settlement, [Registered Entity] has designated [Negotiator Names] to negotiate on your behalf.

This letter confirms that in order to allow Texas RE and [Registered Entity] to have effective settlement negotiations, we have agreed to toll or suspend the deadline by which [Registered Entity] must file a written response to the Notice of Alleged Violation and Proposed Penalty or Sanction. At any time, Texas RE or [Registered Entity] may notify the other that settlement negotiations are not progressing and the Notice of Alleged Violation and Proposed Penalty or Sanction process has resumed in accordance with the Compliance Monitoring and Enforcement Program. We agree that [Registered Entity] will have ten days to file a response once settlement negotiations have ended.

We look forward to discussing potential settlement with you further. Please contact me if you have any questions or need additional information.

Respectfully submitted,

Rashida Caraway
Texas Regional Entity
Manager, Compliance Enforcement
(512) 583-4977
Email: Rashida.Caraway@TexasRE.org

Cc: Larry Grimm – Texas RE
Susan Vincent – Texas RE
[Primary Compliance Contact]