



NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

March 1, 2010

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

**Re: NERC Notice of Penalty regarding City of Palo Alto
FERC Docket No. NP10-_-000**

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Notice of Penalty¹ regarding City of Palo Alto (CYPL), NERC Registry ID# NCR05089,² in accordance with the Federal Energy Regulatory Commission's (Commission or FERC) rules, regulations and orders, as well as NERC Rules of Procedure including Appendix 4C (NERC Compliance Monitoring and Enforcement Program (CMEP)).³

During an off-site Compliance Audit conducted on September 30, 2008 (Audit), the Western Electricity Coordinating Council (WECC) identified possible violations of Reliability Standards CIP-001-1 Requirements (R) 1, R2 and R3 because: (1) CYPL did not have specific procedures for CYPL personnel to follow in order to recognize and report sabotage events to operating personnel; (2) CYPL did not require CYPL, in its Sabotage Procedure, to notify Pacific Gas & Electric (PG&E), its Transmission Operator, of sabotage events; and (3) although CYPL provided some response guidelines to its operating personnel, these guidelines lacked sufficient specificity and did not contain a list of personnel to contact; and a possible violation of PRC-005-1 R1 because CYPL did not include the basis for maintenance and testing intervals, battery

¹ *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards* (Order No. 672), III FERC Stats. & Regs. ¶ 31,204 (2006); *Notice of New Docket Prefix "NP" for Notices of Penalty Filed by the North American Electric Reliability Corporation*, Docket No. RM05-30-000 (February 7, 2008). See also 18 C.F.R. Part 39 (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).

² Western Electricity Coordinating Council confirmed that CYPL was included on the NERC Compliance Registry as a Distribution Provider and Load Serving Entity on June 17, 2007. As a Load Serving Entity, CYPL is subject to the requirements of NERC Reliability Standard CIP-001-1 and as a Distribution Provider, CYPL is subject to the requirement of NERC Reliability Standard PRC-005-1. The Settlement Agreement incorrectly states that CYPL was included on the NERC Compliance Registry on April 10, 2007.

³ See 18 C.F.R. § 39.7(c)(2).

maintenance and a summary of the maintenance and testing procedures in its Protection System⁴ maintenance and testing program. This Notice of Penalty is being filed with the Commission because, based on information from WECC, WECC and CYPL have entered into a Settlement Agreement to resolve all outstanding issues arising from a preliminary and non-public assessment resulting in WECC’s determination and findings of the enforceable alleged violations of CIP-001-1 R1, CIP-001-1 R2, CIP-001-1 R3 and PRC-005-1 R1. According to the Settlement Agreement, these are Confirmed Violations and CYPL has agreed to the proposed penalty of twenty-four thousand five hundred dollars (\$24,500) to be assessed to CYPL, in addition to other remedies and actions to mitigate the instant violations and facilitate future compliance under the terms and conditions of the Settlement Agreement. Accordingly, the alleged violations identified as NERC Violation Tracking Identification Numbers WECC200801107, WECC200801108, WECC200801109 and WECC200801110 are being filed in accordance with the NERC Rules of Procedure and the CMEP.

Statement of Findings Underlying the Alleged Violations

This Notice of Penalty incorporates the findings and justifications set forth in the Settlement Agreement executed on October 13, 2009, by and between WECC and CYPL, which is included as Attachment b. The details of the findings and basis for the penalty are set forth in the Settlement Agreement and herein. This Notice of Penalty filing contains the basis for approval of the Settlement Agreement by the NERC Board of Trustees Compliance Committee (NERC BOTCC). In accordance with Section 39.7 of the Commission’s regulations, 18 C.F.R. § 39.7 (2007), NERC provides the following summary table identifying each alleged violation of a Reliability Standard resolved by the Settlement Agreement, as discussed in greater detail below.

Region	Registered Entity	NOC ID	NERC Violation ID	Reliability Std.	Req. (R)	VRF	Total Penalty (\$)
WECC	City of Palo Alto	NOC-400	WECC200801107	CIP-001-1	1	Medium	24,500
			WECC200801108	CIP-001-1	2	Medium	
			WECC200801109	CIP-001-1	3	Medium	
			WECC200801110	PRC-005-1	1	High ⁵	

⁴ *The NERC Glossary of Terms Used in Reliability Standards*, updated April 20, 2009, defines Protection System as “Protective relays, associated communication systems, voltage and current sensing devices, station batteries and DC control circuitry.”

⁵ When NERC filed VRFs for PRC-005-1, NERC originally assigned a “Medium” VRF to PRC-005-1 R1. In the Commission’s May 18, 2007 Order on Violation Risk Factors, the Commission approved the VRF as filed but directed modifications. On June 1, 2007, NERC filed a modified “High” VRF for PRC-005-1 R1 for approval. On August 6, 2007, the Commission issued an Order approving the modified VRF. Therefore, the “Medium” VRF was in effect from June 18, 2007 until August 6, 2007 and the “High” VRF has been in effect since August 6, 2007.

CIP-001-1

The purpose of Reliability Standard CIP-001-1 is for disturbances or unusual occurrences, suspected or determined to be caused by sabotage, to be reported to the appropriate systems, governmental agencies and regulatory bodies.

CIP-001-1 R1 requires each Load Serving Entity, such as CYPL, to have procedures for the recognition of and for making their operating personnel aware of sabotage events on its facilities and multi-site sabotage affecting larger portions of the Interconnection. CIP-001-1 R1 has a “Medium” Violation Risk Factor (VRF).

CIP-001-1 R2 requires each Load Serving Entity, such as CYPL, to have procedures for the communication of information concerning sabotage events to appropriate parties in the Interconnection. CIP-001-1 R2 has a “Medium” VRF.

CIP-001-1 R3 requires a Load Serving Entity, such as CYPL, to provide its operating personnel with sabotage response guidelines, including personnel to contact, for reporting disturbances due to sabotage events. CIP-001-1 R3 has a “Medium” VRF.

During the Audit, the WECC Audit Team (Audit Team) reviewed CYPL’s *Compliance Procedure for Identifying and Reporting Sabotage (NERC Standard: CIP-001)* (Sabotage Procedure) and determined that CYPL had possible violations of CIP-001-1 R1, R2 and R3. This document contained an outline of CYPL’s sabotage procedures for R1. However, it did not contain specific procedures for personnel to follow in order to recognize and report sabotage events to CYPL operating personnel as required by R1. The Audit Team also found that the Sabotage Procedure contained an outline of CYPL’s compliance procedures for R2 which stated that CYPL reported sabotage events to Northern California Power Agency, who in turn would inform the California Mexico Reliability Center. However, the Audit Team found that CYPL did not include PG&E, its Transmission Operator, in the notification chain. Because of the CYPL system configuration and its interconnection with PG&E, the Audit Team determined that CYPL must notify PG&E of any sabotage events and therefore, had a possible violation of R2. Lastly, CYPL provided a document that provided an outline of its sabotage procedures to show compliance with R3. The outline stated that, in the event of sabotage, CYPL operating personnel would contact appropriate personnel by utilizing CYPL’s outage system. The Audit Team found that this outline was insufficient in providing CYPL’s operating personnel with sabotage response guidelines and did not include the names of personnel to contact for reporting disturbances due to sabotage events. Therefore, the Audit Team determined that CYPL had a possible violation of R3. The Audit Team forwarded its findings to the WECC Enforcement Department (WECC Enforcement) for its review and consideration.

WECC Enforcement reviewed CYPL’s Sabotage Procedure and the findings of the Audit Team. WECC Enforcement determined that CYPL had an alleged violation of CIP-001-1 R1 because CYPL’s Sabotage Procedure did not contain specific procedures for CYPL personnel to follow in order to recognize and report sabotage events to operating personnel. WECC Enforcement determined that CYPL had an alleged violation of CIP-001-1 R2 because CYPL’s Sabotage

Procedure did not require CYPL to notify PG&E, its Transmission Operator, of sabotage events. WECC Enforcement determined that CYPL had an alleged violation of CIP-001-1 R3 because although CYPL provided some response guidelines to its operating personnel, these guidelines lacked sufficient specificity and did not contain a list of personnel to contact.

WECC determined that the alleged violations of CIP-001-1 R1, R2 and R3 did not pose a serious or substantial risk to the BPS because: (1) CYPL had an outline of sabotage procedures in place to address sabotage events; (2) CYPL is a small entity that receives electric power at 115 kV from PG&E's transmission system on three radial lines from PG&E; and (3) CYPL uses voltage reduced to a 60 kV sub-transmission level that serves nine distribution substations within the city limits of Palo Alto, California. According to WECC, because of CYPL's size, and the fact that it is tied to the Western Interconnection by only three radial lines, it is unlikely that sabotage at CYPL could have more than a minimal impact on the reliability of the BPS.

WECC determined the duration of each of the alleged violations to be from June 18, 2007, the date the Standard became enforceable, through December 16, 2008, when CYPL completed its Mitigation Plan.

PRC-005-1 R1

The purpose of Reliability Standard PRC-005-1 is to ensure all transmission and generation Protection Systems affecting the reliability of the bulk power system (BPS) are maintained and tested.

PRC-005-1 R1 requires any Distribution Provider that owns a transmission Protection System, such as CYPL,⁶ to have a Protection System maintenance and testing program for Protection Systems that affect the reliability of the BPS. The program shall include (R1.1) maintenance and testing intervals and their basis and (R1.2) a summary of maintenance and testing procedures. PRC-005-1 R1 has a "High" VRF.

During the Audit, the Audit Team reviewed CYPL's maintenance and testing plan titled *Compliance Procedure/or Transmission Protection System Maintenance PRC-005* and determined that CYPL had a possible violation of PRC-005-1 R1. The Audit Team found that CYPL's maintenance and testing plan did not include the basis for maintenance and testing intervals as required by R1.1. In addition, the plan did not address maintenance and testing for station batteries. CYPL provided evidence that it had, in fact, conducted the required maintenance and testing, but its plan did not address maintenance as required by R 1.2. The Audit Team forwarded its findings to WECC Enforcement for its review and consideration.

WECC Enforcement reviewed CYPL's document titled *Compliance Procedure for Transmission Protection System Maintenance PRC-005* and the findings of the Audit Team. WECC

⁶ The Settlement Agreement incorrectly states that CYPL was subject to compliance with PRC-005-1 as a Load Serving Entity.

Enforcement determined that CYPL had an alleged violation of PRC-005-1 R1⁷ because CYPL's plan did not include the basis for maintenance and testing intervals and did not address battery maintenance. Additionally, CYPL's plan did not provide a summary of the maintenance and testing procedures as required by PRC-005-1 R1.2.

WECC determined that the alleged violation of PRC-005-1 did not pose a serious or substantial risk to the BPS because, while CYPL's maintenance and testing procedures did not contain a basis for testing intervals, and did not address station batteries, the Audit Team found and the Enforcement Team concurred, that CYPL was, in fact, testing and maintaining its Protection Systems.⁸ In addition, CYPL is a small entity that is tied to the Western Interconnection by only three radial lines.

WECC Enforcement determined the duration of the alleged violation to be from June 18, 2007, the date the Standard became enforceable, through December 16, 2008, when CYPL completed its Mitigation Plan.

Regional Entity's Basis for Penalty

According to the Settlement Agreement, WECC has assessed a penalty of twenty-four thousand five hundred dollars (\$24,500) for the referenced alleged violations. In reaching this determination, WECC considered the following factors: (1) the alleged violations are the first violations for CYPL of NERC Reliability Standards; (2) CYPL was cooperative throughout the compliance enforcement process; (3) there was no evidence of any attempt to conceal a violation or evidence of intent to do so; (4) CYPL is a relatively small entity; and (5) WECC determined that the alleged violations did not pose a serious or substantial risk to the BPS, as discussed above.

After consideration of the above factors, WECC determined that, in this instance, the penalty amount of twenty-four thousand five hundred dollars (\$24,500) is appropriate and bears a reasonable relation to the seriousness and duration of the alleged violations.

Status of Mitigation Plans⁹

CIP-001-1 R1, R2 and R3

CYPL's Mitigation Plan to address its alleged violations of CIP-001-1 R1, R2 and R3 was submitted to WECC on October 15, 2008.¹⁰ On May 4, 2009, CYPL submitted a revised Mitigation Plan to WECC dated April 30, 2009 stating that it was completed on December 16,

⁷ The Settlement Agreement (Page 5, P 2) incorrectly states that this alleged violation was of CIP-001-1 R1 instead of PRC-005-1 R1.

⁸ CYPL provided the Audit Team the implementation of maintenance and testing program that included tests within the defined intervals and dates those devices were last tested/maintained.

⁹ See 18 C.F.R § 39.7(d)(7).

¹⁰ A completed Mitigation Plan was submitted by CYPL to WECC on December 16, 2008. According to WECC, the original Mitigation Plan and completed Mitigation Plan dated October 15, 2008 and December 16, 2008, respectively, were submitted directly to WECC personnel that are no longer employed with WECC and the Mitigation Plans could not be located.

2008.¹¹ The revised Mitigation Plan was accepted by WECC on October 7, 2009 and approved by NERC on October 13, 2009. The Mitigation Plan for these alleged violations is designated as MIT-08-2026 and was submitted as non-public information to FERC on October 13, 2009 in accordance with FERC orders.

CYPL's Mitigation Plan stated that CYPL had revised its Sabotage Procedure to include a specific, written procedure for recognizing and responding to sabotage events and a contact list of specific personnel at law enforcement, regulatory and utility agencies to notify in the event of sabotage events. The Mitigation Plan also stated that training on the revised procedure would be conducted annually.

CYPL certified in its Mitigation Plan dated April 30, 2009 that its Mitigation Plan was completed on December 16, 2008. As evidence of completion of its Mitigation Plan, CYPL submitted the following:

- A copy of CYPL's current *Sabotage Identification and Response* procedures which included a section addressing procedures for the recognition of, and for making CYPL's operating personnel aware of, sabotage events concerning its facilities and multisite sabotage events affecting larger portions of the Interconnection. The procedures also included sabotage response guidelines for operating personnel and names of personnel to contact for reporting disturbances due to sabotage events;
- Evidence to show that CYPL had distributed the procedures to appropriate CYPL departments; and
- Training attendance sheets.

On June 17, 2009, after WECC's review of CYPL's submitted evidence, WECC verified that CYPL's Mitigation Plan was completed on December 16, 2008 and notified CYPL in a letter dated November 6, 2009 that it was in compliance with CIP-001-1 R1, R2 and R3.

PRC-005-1 R1

CYPL's Mitigation Plan to address its alleged violation of PRC-005-1 R1 was submitted to WECC on October 15, 2008.¹² On May 4, 2009, CYPL submitted a revised Mitigation Plan to WECC dated April 30, 2009 stating that it was completed on December 16, 2008.¹³ The Mitigation Plan was accepted by WECC on May 10, 2009 and approved by NERC on May 28, 2009. The Mitigation Plan for this alleged violation is designated as MIT-08-1713 and was submitted as non-public information to FERC on May 28, 2009 in accordance with FERC orders.

¹¹ When it was discovered that the original Mitigation Plan and completed Mitigation Plan could not be located, CYPL submitted a revised Mitigation Plan on May 4, 2009 which stated that it was completed on December 16, 2008.

¹² A completed Mitigation Plan was submitted by CYPL to WECC on December 16, 2008. According to WECC, the original Mitigation Plan and completed Mitigation Plan dated October 15, 2008 and December 16, 2008, respectively, were submitted directly to WECC personnel that are no longer employed with WECC and the Mitigation Plans could not be located.

¹³ When it was discovered that the original Mitigation Plan and completed Mitigation Plan could not be located, CYPL submitted a revised Mitigation Plan on May 4, 2009 which stated that it was completed on December 16, 2008.

CYPL's Mitigation Plan stated that CYPL revised its *Transmission Protection System Maintenance and Testing Procedure* to include a specific, written procedure for maintaining and testing Transmission Protection Systems, including station batteries. The revised procedure was implemented on December 16, 2008.

CYPL certified in its Mitigation Plan dated April 30, 2009 that its Mitigation Plan was completed on December 16, 2008. As evidence of completion of its Mitigation Plan, CYPL submitted a copy of its revised *Transmission Protection System Maintenance and Testing Procedure*.

On May 10, 2009, after WECC's review of CYPL's submitted evidence, WECC verified that CYPL's Mitigation Plan was completed on December 16, 2008 and notified CYPL in a letter dated June 2, 2009 that it was in compliance with PRC-005-1 R1.

Statement Describing the Proposed Penalty, Sanction or Enforcement Action Imposed¹⁴

Basis for Determination

Taking into consideration the Commission's direction in Order No. 693, the NERC Sanction Guidelines and the Commission's July 3, 2008 Guidance Order,¹⁵ the NERC BOTCC reviewed the Settlement Agreement and supporting documentation on February 10, 2010. The NERC BOTCC approved the Settlement Agreement, including WECC's imposition of a financial penalty, assessing a penalty of twenty-four thousand five hundred dollars (\$24,500) against CYPL 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 alleged violations at issue.

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

- (1) The alleged violations were the first violations for CYPL of NERC Reliability Standards;
- (2) WECC reported CYPL was cooperative throughout the enforcement process;
- (3) there was no evidence of any attempt to conceal a violation nor evidence of intent to do so;
- (4) WECC reported CYPL is a relatively small entity; and
- (5) WECC determined that the alleged violations did not pose a serious or substantial risk to the BPS, as discussed above.

For the foregoing reasons, the NERC BOTCC approves the Settlement Agreement and believes that the proposed penalty of twenty-four thousand five hundred dollars (\$24,500) is appropriate for the violations and circumstances in question, and is consistent with NERC's goal to promote and ensure reliability of the bulk power system.

¹⁴ See 18 C.F.R. § 39.7(d)(4).

¹⁵ *North American Electric Reliability Corporation*, "Guidance Order on Reliability Notices of Penalty," 124 FERC ¶ 61,015 (2008).

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

Attachments to be Included as Part of this Notice of Penalty

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

- a) WECC's Public Audit Screen Shots for CYPL's alleged violations of CIP-001-1 R1, R2 and R3 and PRC-005-1 R1 showing a deemed date of September 30, 2008, included as Attachment a;
- b) Settlement Agreement by and between WECC and CYPL entered into as of October 13, 2009, included as Attachment b;
- c) CYPL's Mitigation Plan designated as MIT-08-2026 for CIP-001-1 R1, R2 and R3 and Certification of Completion therein dated April 30, 2009, included as Attachment c;
- d) WECC's Verification of Completion of the Mitigation Plan for CIP-001-1 R1, R2 and R3 dated November 6, 2009, included as Attachment d;
- e) CYPL's Mitigation Plan designated as MIT-08-1713 for PRC-005-1 R1 and Certification of Completion therein dated April 30, 2009, included as Attachment e; and
- f) WECC's Verification of Completion of the Mitigation Plan for PRC-005-1 R1 dated June 2, 2009, included as Attachment f.

A Form of Notice Suitable for Publication¹⁶

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

¹⁶ See 18 C.F.R § 39.7(d)(6).

Notices and Communications

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

<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, N.J. 08540-5721 (609) 452-8060 (609) 452-9550 – facsimile gerry.cauley@nerc.net david.cook@nerc.net</p> <p>Christopher Luras* Manager of Compliance Enforcement Western Electricity Coordinating Council 615 Arapeen Drive, Suite 210 Salt Lake City, UT 84108-1262 (801) 883-6887 (801) 883-6894 – facsimile CLuras@wecc.biz</p> <p>Tomm Marshall* Asst. Utilities Director P.O. Box 10250 Palo Alto, CA 94303 (650) 566-4506 (650) 566-4536 – facsimile Tomm.marshall@cityofpaloalto.org</p> <p>Tom Finch* Sr. Electric Project Engineer P.O. Box 10250 Palo Alto, CA 94303 (650) 566-4515 (650) 566-4536 – facsimile Tom.finch@cityofpaloalto.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 A. Hawkins* Attorney 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</p> <p>Louise McCarren* Chief Executive Officer Western Electricity Coordinating Council 615 Arapeen Drive, Suite 210 Salt Lake City, UT 84108-1262 (801) 883-6868 (801) 582-3918 – facsimile Louise@wecc.biz</p> <p>Steven Goodwill* Associate General Counsel Western Electricity Coordinating Council 615 Arapeen Drive, Suite 210 Salt Lake City, UT 84108-1262 (801) 883-6857 (801) 883-6894 – facsimile SGoodwill@wecc.biz</p> <p>Constance White* Vice President of Compliance Western Electricity Coordinating Council 615 Arapeen Drive, Suite 210 Salt Lake City, UT 84108-1262 (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

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cc: City of Palo Alto
Western Electricity Coordinating Council

Attachments