



NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

January 31, 2011

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

**Re: NERC Abbreviated Notice of Penalty regarding Borger Energy Associates, LP,  
FERC Docket No. NP11-\_\_-000**

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Abbreviated Notice of Penalty (NOP) regarding Borger Energy Associates, LP (Blackhawk), with information and details regarding the nature and resolution of the violations<sup>1</sup> discussed in detail in the Settlement Agreement (Attachment a) and the Disposition Documents attached thereto, 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>

This NOP is being filed with the Commission because Southwest Power Pool Regional Entity (SPP RE) and Blackhawk have entered into a Settlement Agreement to resolve all outstanding issues arising from SPP RE's determination and findings of the enforceable violations of FAC-009-1 Requirement (R) 1, PRC-005-1 R1 and PRC-005-1 R2.<sup>3</sup> According to the Settlement Agreement, Blackhawk admits the violations and has agreed to the assessed penalty of seventeen

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<sup>1</sup> 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.

<sup>2</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>3</sup> Some of the supporting documents reference a violation of FAC-008-1 R1 for Blackhawk's failure to include terminal equipment, breakers and disconnect switches in its Facility Rating and Methodology Procedure. SPP dismissed the violation on September 17, 2010 because upon further review, SPP RE determined that Blackhawk did not own any terminal equipment, breakers or disconnect switches applicable to the determination of the rating of its generating facility.

thousand dollars (\$17,000), in addition to other remedies and actions to mitigate the instant violations and facilitate future compliance under the terms and conditions of the Settlement Agreement. Accordingly, the violations identified as NERC Violation Tracking Identification Numbers SPP200900101, SPP200900102 and SPP200900103 are being filed in accordance with the NERC Rules of Procedure and the CMEP.

**Statement of Findings Underlying the Violations**

This NOP incorporates the findings and justifications set forth in the Settlement Agreement executed on December 17, 2010, by and between SPP RE and Blackhawk. The details of the findings and the basis for the penalty are set forth in the Disposition Documents. 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-554	SPP200900101	FAC-009-1	1	Medium	6/18/07-3/11/10	17,000
NOC-554	SPP200900102	PRC-005-1	1	High <sup>4</sup>	6/18/07-4/29/10	
NOC-554	SPP200900103	PRC-005-1	2	High <sup>5</sup>	6/18/07-10/17/10	

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

**FAC-009-1 R1- OVERVIEW**

This violation was discovered during the July 20, 2009 through July 24, 2009 off-site Compliance Audit. SPP RE determined that Blackhawk, as a Generator Owner, did not have Facility Ratings consistent with its Facility Rating and Methodology Procedure. Blackhawk did not have individual equipment ratings for the Generator Iso-Phase Bus, Transmission

<sup>4</sup> When NERC filed Violation Risk Factors (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 R1 for approval. On August 9, 2007, the Commission issued an Order approving the modified VRF. Therefore, the “Medium” VRF was in effect from June 18, 2007 until August 9, 2007 and the “High” VRF has been in effect since August 9, 2007.

<sup>5</sup> PRC-005-1 R2 has a “Lower” VRF; R2.1 and R2.2 each have a “High” VRF. During a final review of the standards subsequent to the March 23, 2007 filing of the Version 1 VRFs, NERC identified that some standards requirements were missing VRFs; one of these include PRC-005-1 R2.1. On May 4, 2007, NERC assigned PRC-005 R2.1 a “High” VRF. In the Commission’s June 26, 2007 Order on Violation Risk Factors, the Commission approved the PRC-005-1 R2.1 “High” VRF as filed. Therefore, the “High” VRF was in effect from June 26, 2007. In the context of this case, SPP RE determined that the violation related to both R2.1 and R2.2, and therefore a “High” VRF is appropriate.

Conductors, Relay Protective Devices, and Series and Shunt Compensation Devices.<sup>6</sup> Additionally, the ratings did not include Normal (with the exception of the generator ratings), Emergency Ratings, or identify the Ambient Conditions under which the ratings were determined.

#### PRC-005-1 R1- OVERVIEW

This violation was discovered during the July 20, 2009 through July 24, 2009 off-site Compliance Audit. SPP RE determined that Blackhawk, as a Generator Owner, did not have a documented Protection System<sup>7</sup> maintenance and testing program that included current and potential transformers and DC control circuitry or a summary of the maintenance and testing procedures for any of its PRC-005-1 devices. It was subsequently determined that Blackhawk did not have maintenance and testing intervals and their basis for any of its Protection Systems<sup>8</sup> or a summary of the maintenance and testing procedures for any of its Protection System devices.

#### PRC-005-1 R2- OVERVIEW

This violation was discovered during the July 20, 2009 through July 24, 2009 off-site Compliance Audit. SPP RE determined that Blackhawk, as a Generator Owner, did not test any of its Protection System devices within established intervals. It was determined that Blackhawk could not provide testing records for its protective relays, station battery, current and voltage sensing transformers and DC Control Circuitry devices.

### **Statement Describing the Assessed Penalty, Sanction or Enforcement Action Imposed<sup>9</sup>**

#### **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,<sup>10</sup> the NERC BOTCC reviewed the Settlement Agreement and supporting documentation on December 10, 2010. The NERC BOTCC approved the Settlement Agreement, including SPP RE's assessment of a seventeen thousand dollar (\$17,000) financial penalty against Blackhawk and other actions to facilitate future compliance required under the terms and conditions of the Settlement Agreement. In approving the Settlement Agreement, the NERC BOTCC reviewed the applicable requirements of the Commission-approved Reliability Standards and the underlying facts and circumstances of the violations at issue.

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<sup>6</sup> Blackhawk had included Generator Iso-Phase Bus, Transmission Conductors, Relay Protective Devices, and Series and Shunt Compensation Devices in its Facility Rating and Methodology Procedure even though it did not own any Transmission Conductors or Series and Shunt Compensation Devices.

<sup>7</sup> *The NERC Glossary of Terms Used in Reliability Standards* defines Protection System as "Protective relays, associated communication systems, voltage and current sensing devices, station batteries and DC control circuitry."

<sup>8</sup> Blackhawk had provided the Audit Team with contracts demonstrating testing intervals for battery and relay testing, but it was determined this documentation did not rise to the level of a formalized internal program.

<sup>9</sup> See 18 C.F.R. § 39.7(d)(4).

<sup>10</sup> *North American Electric Reliability Corporation*, "Guidance Order on Reliability Notices of Penalty," 124 FERC ¶ 61,015 (2008); *North American Electric Reliability Corporation*, "Further Guidance Order on Reliability Notices of Penalty," 129 FERC ¶ 61,069 (2009); *North American Electric Reliability Corporation*, "Notice of No Further Review and Guidance Order," 132 FERC ¶ 61,182 (2010).

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

1. the violations constituted Blackhawk's first occurrence of violations of the subject NERC Reliability Standards;<sup>11</sup>
2. SPP RE reported that Blackhawk was cooperative throughout the compliance enforcement process;
3. Blackhawk had a compliance program at the time of the violation which SPP RE considered a mitigating factor, as discussed in the Disposition Documents;
4. there was no evidence of any attempt to conceal a violation nor evidence of intent to do so;
5. SPP RE determined that the violations did not pose a serious or substantial risk to the reliability of the bulk power system (BPS), as discussed in the Disposition Documents; and
6. SPP RE 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 approves the Settlement Agreement and believes that the assessed penalty of seventeen thousand dollars (\$17,000) is appropriate for the violations 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.

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<sup>11</sup> Violations for an affiliate of Blackhawk, which were not considered an aggravating factor because there was nothing in the record to suggest that broader corporate issues were implicated, are identified and addressed in the Disposition Documents.

**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:<sup>12</sup>

- a) Settlement Agreement by and between SPP RE and Blackhawk executed December 17, 2010, included as Attachment a;
  - i. Disposition Document for Common Information included as Attachment 1 to the Settlement Agreement;
  - ii. Disposition Document for FAC-009-1 R1, included as Attachment 1.a to the Settlement Agreement;
  - iii. Disposition Document for PRC-005-1 R1, included as Attachment 1.b to the Settlement Agreement;
  - iv. Disposition Document for PRC-005-1 R2, included as Attachment 1.c to the Settlement Agreement;
- b) SPP RE's Compliance Audit Report for Blackhawk's violations of FAC-009-1 R1, PRC-005-1 R1 and PRC-005-1 R2 dated August 7, 2009, included as Attachment b;
- c) Blackhawk's Mitigation Plan MIT-07-2459 for FAC-009-1 R1 submitted April 8, 2010, included as Attachment c;
- d) Blackhawk's Mitigation Plan MIT-09-2460 for PRC-005-1 R1 submitted April 8, 2010, included as Attachment d;
- e) Blackhawk's Mitigation Plan MIT-09-2461 for PRC-005-1 R2 submitted April 8, 2010, included as Attachment e;
- f) Blackhawk's Certification of Mitigation Plan Completion for FAC-009-1 R1 dated April 8, 2010, included as Attachment f;<sup>13</sup>
- g) Blackhawk's Certification of Mitigation Plan Completion for PRC-005-1 R1 dated April 29, 2010, included as Attachment g;
- h) Blackhawk's Certification of Mitigation Plan Completion for PRC-005-1 R2 dated November 22, 2010, included as Attachment h;
- i) SPP RE's Verification of Mitigation Plan Completion for FAC-009-1 R1 dated May 19, 2010, included as Attachment i;
- j) SPP RE's Verification of Mitigation Plan Completion for PRC-005-1 R1 dated June 4, 2010, included as Attachment j; and<sup>14</sup>
- k) SPP RE's Verification of Mitigation Plan Completion for PRC-005-1 R2 dated December 3, 2010, included as Attachment k.

**A Form of Notice Suitable for Publication**<sup>15</sup>

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

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<sup>12</sup> See n.3 *supra*.

<sup>13</sup> The Certification of Completion incorrectly states the Mitigation Plan was submitted on April 7, 2010.

<sup>14</sup> The Verification of Mitigation Plan Completion incorrectly refers to the PRC-005-1 R2 violation instead of the PRC-005-1 R1 violation.

<sup>15</sup> See 18 C.F.R. § 39.7(d)(6).

## Notices and Communications

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

<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>Ms. Mona Caesar Johnson, P.E.* Compliance Manager Borger Energy Associates, LP 919 Milam, Suite 2300 Houston, TX 77002 P.O. Box 29 Borger, TX 79008 (713) 358-9736 (713) 358-9730 – facsimile mjohnson@camstex.com</p> <p>Mr. Malcolm Carroll* Asset Manager Borger Energy Associates, LP 919 Milam, Suite 2300 Houston, TX 77002 P.O. Box 29 Borger, TX 79008 (713) 358-9732 (713) 358-9730 – facsimile mcarroll@camstex.com</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 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</p> <p>Stacy Dochoda* General Manager Southwest Power Pool Regional Entity 16101 La Grande, Ste 103 Little Rock, AR 72223 (501) 688-1730 (501) 821-8726 – facsimile sdochoda@spp.org</p> <p>Joe Gertsch* Manager of Enforcement Southwest Power Pool Regional Entity 16101 La Grande, Ste 103 Little Rock, AR 72223 (501) 688-1672 (501) 821-8726 – facsimile jgertsch@spp.org</p> <p>Machelle Smith* Paralegal &amp; SPP RE File Clerk Southwest Power Pool Regional Entity 16101 La Grande, Ste 103 Little Rock, AR 72223 (501) 688-1681 (501) 821-8726 – facsimile spp_regional_entity_file_clerk@spp.org</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,

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

/s/ Rebecca J. Michael  
Rebecca J. Michael  
Assistant General Counsel  
North American Electric Reliability  
Corporation  
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(202) 393-3955 – facsimile  
rebecca.michael@nerc.net

cc: Borger Energy Associates, LP  
Southwest Power Pool Regional Entity

Attachments

## **Attachment a**

# **Settlement Agreement by and between SPP RE and Blackhawk executed December 17, 2010**



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**SETTLEMENT AGREEMENT**  
**OF**  
**SOUTHWEST POWER POOL REGIONAL ENTITY**  
**AND**  
**BORGER ENERGY ASSOCIATES**

**I. INTRODUCTION**

The Southwest Power Pool Regional Entity (SPP RE) and Borger Energy Associates (Blackhawk) (hereinafter referred to individually as “Party” and collectively as the “Parties”) enter into this Settlement Agreement (Settlement Agreement) to resolve all outstanding issues arising from a preliminary and non-public assessment resulting in SPP RE’s determination and findings, pursuant to the North American Electric Reliability Corporation (NERC) Rules of Procedure, of violation by Blackhawk of the following NERC Reliability Standards (Violations).<sup>1</sup>

<b>NERC Violation ID</b>	<b>SPP RE Tracking No.</b>	<b>RELIABILITY STANDARD</b>	<b>REQ.(S)</b>	<b>SUB-REQ.(S)</b>	<b>Discovery Method</b>
SPP200900101	2009-031	FAC-009-1	R1		Audit
SPP200900102	2009-032	PRC-005-1	R1	R.1.1, R1.2	Audit
SPP200900103	2009-033	PRC-005-1	R2	R2.1, R2.2	Audit

Blackhawk admits to the violations of the above referenced NERC Reliability Standards and has agreed to the proposed penalty of (\$ 17,000) to be assessed to Blackhawk, in addition to other remedies and actions to mitigate the Violations and facilitate future compliance under the terms and conditions of this Settlement Agreement.

**II. STIPULATION**

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<sup>1</sup> For purposes of this document and attachments hereto, the Violations at issue are described as “Violations”, regardless of their procedural posture and whether they are possible, alleged, or confirmed violations.

The Parties enter into this Settlement Agreement and agree to the facts stipulated herein in order to avoid uncertainty and to effectuate a complete and final resolution of the Violations. The facts stipulated herein are stipulated solely for the purpose of resolving the Violations and do not represent stipulations or admissions, by either Party, for any other purpose. The Parties agree this Settlement Agreement is in the best interest of the Parties and in the best interest of protecting the reliability of the Bulk Power System (BPS). In consideration of the terms set forth herein, SPP RE and Blackhawk hereby stipulate and agree to the following:

### **Background**

See Section I. of the Disposition Document (Attachment 1) for a description of Blackhawk.

### **Violations of NERC Reliability Standards**

See Section I. of the Disposition Document (Attachments 1.a, 1.b, and 1.c for a description of the Violations).

## **III. PARTIES' SEPARATE REPRESENTATIONS**

### **STATEMENT OF SPP RE AND SUMMARY OF FINDINGS**

SPP RE finds that beginning on June 18, 2007, and continuing until March 11, 2010, the date Blackhawk completed its mitigation plan, Blackhawk's facility ratings were not consistent with its facility rating methodology because the facility ratings did not include the generator iso-phase bus and relay protective devices, nor did the facility ratings address normal and emergency ratings or ambient conditions.

SPP RE finds that beginning on June 18, 2007 and continuing until April 29, 2010, the date Blackhawk completed its mitigation plan, Blackhawk's protection system maintenance and testing program did not include current and potential transformers and DC control circuitry as required by NERC Reliability Standard PRC-005-1 R1. Additionally, Blackhawk did not include a summary of its protection system maintenance and testing procedures for any of its protection system devices in its procedure.

SPP RE finds that beginning on June 18, 2007 and continuing until October 17, 2010, the date Blackhawk completed its mitigation plan, Blackhawk failed to perform maintenance and testing of its current and voltage sensing devices and DC control circuitry as required by NERC Reliability Standard PRC-005-1 R2.

SPP RE agrees that this agreement is in the best interest of the Parties and in the best interest of BPS reliability.

## STATEMENT OF BLACKHAWK

Blackhawk admits that the facts set forth and agreed to by the Parties for the purpose of this Settlement Agreement constitute violations of the Reliability Standards listed in Attachments 1.a, 1.b, and 1.c. Borger Energy Associates has done everything within its power to correct these violations in an expeditious fashion. Borger Energy Associates wishes to settle this matter as quickly as possible so that all available resources may be directed toward ensuring continued compliance in all areas.

Blackhawk agrees to enter into this Settlement Agreement with SPP RE to avoid extended litigation with respect to the matters described or referred to herein, to avoid uncertainty, and to effectuate a complete and final resolution of the Violations.

Blackhawk agrees that this agreement is in the best interest of the Parties and in the best interest of maintaining a reliable electric infrastructure.

## IV. MITIGATING ACTIONS, REMEDIES AND SANCTIONS

SPP RE and Blackhawk agree that with respect to violations SPP200900101, SPP200900102, and SPP200900103, Blackhawk has completed and SPP RE has verified Blackhawk's completion of the mitigating actions set forth in Section III of Attachments 1.a, 1.b and 1.c of the Disposition Document.

SPP RE considered the specific facts and circumstances of the Violations including Blackhawk's actions in mitigation thereof in determining a penalty satisfying the requirement in Section 215 of the Federal Power Act that "[a]ny penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of a Registered Entity to remedy the violations in a timely manner."<sup>2</sup> The factors considered by the SPP RE in the determination of the appropriate penalty are set forth in Section II. of Attachment 1 of the Disposition Document.

In settlement of all outstanding issues related to the Violations, the Parties agree that Blackhawk shall pay the monetary penalty of \$17,000 to SPP RE, via wire transfer or cashier's check payable to a SPP RE account that will be outlined in a Notice of Payment sent to Blackhawk upon approval of this Settlement Agreement by both the North American Electric Reliability Corporation (NERC) and the Federal Energy Regulatory Commission (FERC or Commission), either by order or by operation of law. Payment to SPP RE shall be made twenty days after the receipt of the Notice of Payment. SPP RE shall inform NERC if the payment is not timely received.

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<sup>2</sup> 16 U.S.C. § 824o(e)(6).

Failure to make a timely Penalty payment or to comply with any of the other conditions of this Settlement Agreement shall be deemed to be a continuation of the Violations and/or additional violations and may subject Blackhawk to new or additional enforcement, penalty or sanction actions in accordance with the NERC Rules of Procedure. Blackhawk shall retain all rights to defend against such renewed or additional enforcement actions in accordance with the NERC Rules of Procedure.

If Blackhawk does not make the Penalty payment described above on the date agreed to by the Parties, then interest on the Penalty will begin to accrue at the rate(s) specified in the Commission's regulations at 18 C.F.R. § 35.19(a)(2)(iii) commencing on the date that payment is due. Such interest shall be payable in addition to the Penalty.

## **V. ADDITIONAL TERMS**

The Parties agree that they enter into this Settlement Agreement voluntarily and that, other than the recitations set forth herein, no tender, offer or promise of any kind by any member, employee, officer, director, agent or representative of the Parties has been made to induce the Parties or any other party to enter into the Settlement Agreement.

SPP RE shall report the terms of this Settlement Agreement to NERC. NERC will review this Settlement Agreement for the purpose of evaluating its consistency with other settlements entered into for similar violations or involving similar circumstances. Based on this review, NERC will either approve or reject this Settlement Agreement. If NERC rejects this Settlement Agreement, NERC will provide specific written reasons for such rejection and shall notify SPP RE and Blackhawk of changes to the terms of this Settlement Agreement that would result in its approval. SPP RE will attempt to negotiate a revised settlement agreement with Blackhawk that shall reflect any changes to the original Settlement Agreement specified by NERC. If a revised settlement cannot be reached, the enforcement process shall continue to conclusion. If NERC approves this Settlement Agreement, NERC will (i) report the approved Settlement Agreement to the Commission for the Commission's review and approval by order or operation of law and (ii) publicly post this Settlement Agreement.

This Settlement Agreement shall become effective upon the Commission's approval of the Settlement Agreement by order or operation of law as submitted to it or as modified in a manner acceptable to the Parties.

Blackhawk agrees that this Settlement Agreement, when approved by NERC and the Commission, shall represent a final settlement of all matters set forth herein and Blackhawk waives its right to further hearings and appeal of such matters, unless and only to the extent that Blackhawk contends that any NERC or Commission action on this Settlement Agreement contain one or more material modifications to this Settlement Agreement. SPP RE reserves all rights to initiate enforcement, penalty or sanction actions against Blackhawk in accordance with the NERC Rules of Procedure in the event that Blackhawk fails to comply with the terms of this Settlement Agreement. In the event Blackhawk fails to comply with such terms, SPP RE will initiate enforcement, penalty, or

sanction actions against Blackhawk to the maximum extent allowed by the NERC Rules of Procedure, up to the maximum statutorily allowed penalty. Except as otherwise specified in this Settlement Agreement, Blackhawk shall retain all rights to defend against such enforcement actions, also according to the NERC Rules of Procedure.

Blackhawk consents to the use of SPP RE's determinations, findings and conclusions set forth in this Settlement Agreement for the purpose of assessing Blackhawk's history of violations, in accordance with the NERC Sanction Guidelines and applicable Commission orders and policy statements. Such use may be in any enforcement action or compliance proceeding undertaken by NERC and/or any Regional Entity involving the Reliability Standards described herein; provided, however, that Blackhawk does not consent to the use of the specific acts set forth in this Settlement Agreement as the sole basis for any other action or proceeding brought by NERC and/or SPP RE, nor does Blackhawk consent to the use of this Settlement Agreement by any other party in any other action or proceeding

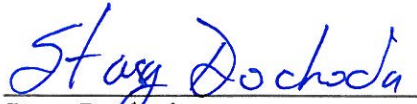
Each of the undersigned warrants that he or she is an authorized representative of the Party designated, is authorized to bind such Party and accepts the Settlement Agreement on the Party's behalf.

The undersigned representative of each Party affirms that he or she has read this Settlement Agreement, that all of the matters set forth in this Settlement Agreement are true and correct to the best of his or her knowledge, information and belief, and that he or she understands that this Settlement Agreement is entered into by each Party in express reliance on those representations; provided, however, that such affirmation by each Party's representative shall not apply to the other Party's statements of position set forth in Section III of this Settlement Agreement.

This Settlement Agreement may be signed in counterparts.

This Settlement Agreement is executed in duplicate, each of which so executed shall be deemed to be an original.

Agreed to and accepted:



Stacy Dochoda  
General Manager

**SOUTHWEST POWER POOL REGIONAL ENTITY**

12-17-10

Date



Malcolm Carroll  
Asset Manager

**BORGER ENERGY ASSOCIATES, LP**

12/16/10

Date

# **Disposition Document for Common Information**

**DISPOSITION OF VIOLATION<sup>1</sup>**  
**INFORMATION COMMON TO INSTANT VIOLATIONS**  
**Dated December 17, 2010**

REGISTERED ENTITY  
**Borger Energy Associates  
 (Blackhawk)**

NERC REGISTRY ID  
**NCR01062**

NOC#  
**NOC-554**

REGIONAL ENTITY  
**Southwest Power Pool Regional Entity (SPP RE)**

**I. REGISTRATION INFORMATION**

ENTITY IS REGISTERED FOR THE FOLLOWING FUNCTIONS:

BA	DP	GO	GOP	IA	LSE	PA	PSE	RC	RP	RSG	TO	TOP	TP	TSP
		X												
		5/31/2007												

DESCRIPTION OF THE REGISTERED ENTITY

**Borger Energy Associates, LP (Blackhawk) is an independent company that is operated and managed under contract by NAES Corporation (NAES) and, effective June 4, 2010, Consolidated Assessment Management Services (CAMS). NAES provides the operations and maintenance services for Blackhawk as an outside contractor. CAMS provides the general and asset management services for Blackhawk. Blackhawk operates two gas-fired generators within the Wood River Borger (WRB) Refinery. The combined generating capacity of the Blackhawk generators is approximately 230 MW.**

IS THERE A SETTLEMENT AGREEMENT      YES       NO

WITH RESPECT TO THE VIOLATION(S), REGISTERED ENTITY

NEITHER ADMITS NOR DENIES IT (SETTLEMENT ONLY)      YES   
 ADMITS TO IT      YES   
 DOES NOT CONTEST IT (INCLUDING WITHIN 30 DAYS)      YES

<sup>1</sup> 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.



WITH RESPECT TO THE ASSESSED PENALTY OR SANCTION, REGISTERED ENTITY

ACCEPTS IT/ DOES NOT CONTEST IT YES

**II. PENALTY INFORMATION**

TOTAL ASSESSED PENALTY OR SANCTION OF **\$17,000** FOR **THREE<sup>2</sup>** VIOLATIONS OF RELIABILITY STANDARDS

(1) REGISTERED ENTITY'S COMPLIANCE HISTORY

PRIOR VIOLATIONS OF ANY OF THE INSTANT RELIABILITY STANDARDS OR REQUIREMENTS THEREUNDER

YES  NO

LIST ANY CONFIRMED OR SETTLED VIOLATIONS AND STATUS

ADDITIONAL COMMENTS

PRIOR VIOLATIONS OF OTHER RELIABILITY STANDARDS OR REQUIREMENTS THEREUNDER

YES  NO

LIST ANY PRIOR CONFIRMED OR SETTLED VIOLATIONS AND STATUS

ADDITIONAL COMMENTS

**Borger Energy Associates (Blackhawk) is wholly owned by ArcLight Energy Marketing, LLC (ArcLight) which trades and manages physical and financial assets in the wholesale power markets. Besides Blackhawk, ArcLight has an interest in 61 other affiliates. SPP RE identified one other affiliate of ArcLight as having had a prior violation of the NERC Reliability Standards. This affiliate, Crockett Cogeneration, a California Limited Partnership (Crockett), had a prior Notice of Penalty (NOC0298, filed with FERC in NP10-2-000) involving confirmed violations of FAC-003-1 R1 and R2.**

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<sup>2</sup> Some of the supporting documents reference a violation of FAC-008-1 R1, but it was dismissed on September 17, 2010 because upon further review, the Regional Entity determined that the Registered Entity did not own any terminal equipment, breakers or disconnect switches applicable to the determination of the rating of its generating facility.

**Blackhawk has no relationship with Crockett beyond its relationship with the parent company, ArcLight. ArcLight does not get involved with the operation of Blackhawk. Additionally, Blackhawk's compliance program is overseen by an outside consultant. Therefore, Blackhawk's affiliation with Crockett should not be considered in this penalty determination. SPP RE determined that the prior violations of the affiliate should not serve as a basis for aggravating the penalty because there was nothing in the record to suggest that broader corporate issues were implicated.**

(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      YES       NO   
IF NO, EXPLAIN

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

IS THERE A DOCUMENTED COMPLIANCE PROGRAM  
YES       NO   
EXPLAIN

**Blackhawk has a compliance program in place which was considered a mitigating factor by SPP RE. Blackhawk's compliance program addresses all NERC standards and requirements applicable to its Generator Owner functions. Blackhawk's compliance program includes procedures related to manpower, procedures, information manuals, internal assessments, and disciplinary action for wrongdoing. These elements are essential to developing a culture of compliance.**

**NAES has organized a Compliance Committee to assist Blackhawk in achieving full compliance with the NERC Reliability Standards. In addition, NAES has established an assessment program in which the site leadership team meets several times annually to review internal processes and procedures and make changes necessary to remain in compliance with the NERC standards. Additionally, Blackhawk plant staff attends SPP RE Compliance workshops and WebEx presentations. Training is given annually to each staff member in the form of webinars, bulletins, and lessons learned during staff meetings.**

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.

**Blackhawk has an agreement with CAMS to provide general management services to Blackhawk.**

**The CAMS Asset Manager is involved in ensuring that Blackhawk complies with the Reliability Standards. The CAMS Asset Manager routinely discusses any issues with regard to compliance with the NAES team.**

(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

OTHER RELEVANT INFORMATION:

NOTICE OF ALLEGED VIOLATION AND PROPOSED PENALTY OR  
SANCTION ISSUED

DATE: OR N/A

SETTLEMENT DISCUSSIONS COMMENCED

DATE: 5/7/10 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  NO CONTEST

HEARING REQUESTED

YES  NO

DATE

OUTCOME

APPEAL REQUESTED

## **Disposition Document for FAC-009-1 R1**

## DISPOSITION OF VIOLATION

Dated December 17, 2010

NERC TRACKING NO.	REGIONAL ENTITY TRACKING NO.
<b>SPP200900101</b>	<b>2009-031</b>

### I. VIOLATION INFORMATION<sup>1</sup>

RELIABILITY STANDARD	REQUIREMENT(S)	SUB-REQUIREMENT(S)	VRF(S)	VSL(S)
<b>FAC-009-1</b>	<b>R1</b>		<b>Medium</b>	<b>Moderate</b>

VIOLATION APPLIES TO THE FOLLOWING FUNCTIONS:

BA	DP	GO	GOP	IA	LSE	PA	PSE	RC	RP	RSG	TO	TOP	TP	TSP
		X												

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

**The purpose statement of FAC-009-1 provides: “To ensure that Facility Ratings used in the reliable planning and operation of the Bulk Electric System (BES) are determined based on an established methodology or methodologies.”**

**FAC-009-1 R1 provides: “The Transmission Owner and Generator Owner shall each establish Facility Ratings for its solely and jointly owned Facilities that are consistent with the associated Facility Ratings Methodology.”**

VIOLATION DESCRIPTION

**During the July 20, 2009 through July 24, 2009 off-site Compliance Audit, the SPP RE audit team found that Blackhawk’s Facility Ratings were not consistent with its Facility Rating and Methodology Procedure because Blackhawk did not have individual equipment ratings for the Generator Iso-Phase Bus, Transmission Conductors, Relay Protective Devices, and Series and Shunt Compensation Devices.<sup>2</sup> Additionally, the ratings did not include Normal and Emergency Ratings, or identify the Ambient Conditions under which the ratings were determined. Upon review of the one-line of the Blackhawk facility, the SPP RE Enforcement Staff**

<sup>1</sup> Some of the supporting documents reference a violation of FAC-008-1 R1 for Blackhawk’s failure to include terminal equipment, breakers and disconnect switches in its Facility Rating and Methodology Procedure. SPP dismissed the violation on September 17, 2010 because upon further review, SPP RE determined that Blackhawk did not own any terminal equipment, breakers or disconnect switches applicable to the determination of the rating of its generating facility.

<sup>2</sup> Blackhawk had included Generator Iso-Phase Bus, Transmission Conductors, Relay Protective Devices, and Series and Shunt Compensation Devices in its Facility Rating and Methodology Procedure even though it did not own any Transmission Conductors or Series and Shunt Compensation Devices.

subsequently determined that Blackhawk does not own any Transmission Conductors or Series and Shunt Compensation Devices, and therefore, ratings for this equipment is not applicable.

RELIABILITY IMPACT STATEMENT- POTENTIAL AND ACTUAL

SPP RE found that the potential and actual impact to the bulk power system (BPS) is minimal because although Blackhawk did not include individual equipment ratings for all of the elements comprising its generation facility, Blackhawk had established the normal rating of its unit generator as the rating of its generation facility, and the unit generator is the limiting element of its generation facility. This conclusion was confirmed upon completion of the Mitigation Plan as Blackhawk's rating of the unit generator had not changed, and that element remained the most limiting element of the facility.

**II. 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) **6/18/07 (the date the Reliability Standard became mandatory and enforceable) – 3/11/2010 (Mitigation Plan completed)**

DATE DISCOVERED BY OR REPORTED TO REGIONAL ENTITY **7/24/09**

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

**III. MITIGATION INFORMATION**

FOR FINAL ACCEPTED MITIGATION PLAN:

MITIGATION PLAN NO. **MIT-07-2459**  
DATE SUBMITTED TO REGIONAL ENTITY **4/8/10**  
DATE ACCEPTED BY REGIONAL ENTITY **4/14/10**  
DATE APPROVED BY NERC **4/30/10**  
DATE PROVIDED TO FERC **5/3/10**

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

N/A

MITIGATION PLAN COMPLETED YES  NO

EXPECTED COMPLETION DATE **3/11/10**  
EXTENSIONS GRANTED **N/A**  
ACTUAL COMPLETION DATE **3/11/10**

DATE OF CERTIFICATION LETTER **4/8/10<sup>3</sup>**  
CERTIFIED COMPLETE BY REGISTERED ENTITY AS OF **3/11/10**

DATE OF VERIFICATION LETTER **5/19/10**  
VERIFIED COMPLETE BY REGIONAL ENTITY AS OF **3/11/10**

ACTIONS TAKEN TO MITIGATE THE ISSUE AND PREVENT RECURRENCE

**To correct the violation of NERC Reliability Standard FAC-009-1 R1, Blackhawk revised its Facility Ratings to include ratings for all of the equipment that comprises its facilities and included the ambient conditions for such ratings.**

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

- **Blackhawk Station – Reliability Compliance Manual Procedure – RCP-NERC-FAC-009**

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<sup>3</sup> The Certification of Mitigation Plan Completion incorrectly states that the Mitigation Plan was submitted on April 7, 2010.



- **RCP-NERC-Attachment 33, *Facility Rating and Methodology*, Rev 2, dated May 23, 2008**

EXHIBITS:

SOURCE DOCUMENT

**SPP RE's Compliance Audit Report for Blackhawk's violation of FAC-009-1 R1 dated August 24, 2009**

MITIGATION PLAN

**Blackhawk's Mitigation Plan MIT-07-2459 for FAC-009-1 R1 submitted April 8, 2010**

CERTIFICATION BY REGISTERED ENTITY

**Blackhawk's Certification of Mitigation Plan Completion for FAC-009-1 R1 dated April 7, 2010**

REGIONAL ENTITY VERIFICATION

**SPP RE's Verification of Mitigation Plan Completion for FAC-009-1 R1 dated May 19, 2010**

## **Disposition Document for PRC-005-1 R1**

## DISPOSITION OF VIOLATION

**Dated December 17, 2010**

NERC TRACKING NO.	REGIONAL ENTITY TRACKING NO.
<b>SPP200900102</b>	<b>2009-032</b>

### **I. VIOLATION INFORMATION**

RELIABILITY STANDARD	REQUIREMENT(S)	SUB-REQUIREMENT(S)	VRF(S)	VSL(S)
<b>PRC-005-1</b>	<b>R1</b>	<b>1.1, 1.2</b>	<b>High<sup>1</sup></b>	<b>Severe</b>

VIOLATION APPLIES TO THE FOLLOWING FUNCTIONS:

BA	DP	GO	GOP	IA	LSE	PA	PSE	RC	RP	RSG	TO	TOP	TP	TSP
		X												

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

**The purpose statement of PRC-005-1 provides: “To ensure all transmission and generation Protection Systems<sup>[2]</sup> affecting the reliability of the Bulk Electric System (BES) are maintained and tested.” (Footnote added)**

**PRC-005-1 R1 provides:**

**Each Transmission Owner and any Distribution Provider that owns a transmission Protection System and each Generator Owner that owns a generation Protection System shall have a Protection System maintenance and testing program for Protection Systems that affect the reliability of the BES. The program shall include:**

**R1.1. Maintenance and testing intervals and their basis.**

**R1.2. Summary of maintenance and testing procedures.**

VIOLATION DESCRIPTION

**During the July 20, 2009 through July 24, 2009 off-site Compliance Audit, the SPP**

<sup>1</sup> 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 R1 for approval. On August 9, 2007, the Commission issued an Order approving the modified VRF. Therefore, the “Medium” VRF was in effect from June 18, 2007 until August 9, 2007 and the “High” VRF has been in effect since August 9, 2007.

<sup>2</sup> *The NERC Glossary of Terms Used in Reliability Standards* defines Protection System as “Protective relays, associated communication systems, voltage and current sensing devices, station batteries and DC control circuitry.”

RE audit team found that Blackhawk’s Protection System maintenance and testing program did not include all of the required Protection System devices as required by the standard. Its twelve (12) Current and potential transformers, twenty-one (21) DC control circuitry, and communications systems<sup>3</sup> were missing from its Protection System maintenance and testing program. Additionally, Blackhawk did not have a summary of the maintenance and testing program for any of its Protection System devices.

Upon further investigation by SPP RE Enforcement, it was discovered that Blackhawk did not have a documented Protection System maintenance and testing program. Therefore, its twenty-one (21) Protection System Relays and one (1) station battery bank were determined to be missing from Blackhawk’s Protection System maintenance and testing program as well. Blackhawk had provided the audit team with contracts demonstrating testing intervals for battery and relay testing, but it was determined this documentation did not rise to the level of a formalized internal program. Additionally, it was discovered that Blackhawk did not own or operate any protection system communication devices.

RELIABILITY IMPACT STATEMENT- POTENTIAL AND ACTUAL

The SPP RE determined Blackhawk’s violation of PRC-005-1 R1 did not represent a serious or substantial risk to the bulk power system (BPS). Blackhawk operates two generators with a combined generating capacity of 230 MW. The generation facility is connected to the BES at a 115 kV substation that is owned and operated by Blackhawk’s transmission service provider. Additionally, the transmission service provider owns and operates other protection systems in the substation that provide a measure of redundancy for protection of the BES. Because of the size of the generators and the fact that they are connected to the BES at a low voltage substation owned and operated by the transmission service provider, the SPP RE has determined the risk to the BES is minimal.

**II. DISCOVERY INFORMATION**

METHOD OF DISCOVERY

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

<sup>3</sup> Blackhawk does not own any communication system devices.

DURATION DATE(S) **6/18/07 (the date the Standard became mandatory and enforceable) - 4/29/10 (Mitigation Plan completion)**  
DATE DISCOVERED BY OR REPORTED TO REGIONAL ENTITY **7/24/09**

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

**III. MITIGATION INFORMATION**

FOR FINAL ACCEPTED MITIGATION PLAN:

MITIGATION PLAN NO. **MIT-09-2460**  
DATE SUBMITTED TO REGIONAL ENTITY **4/8/10**  
DATE ACCEPTED BY REGIONAL ENTITY **4/14/10**  
DATE APPROVED BY NERC **4/30/10**  
DATE PROVIDED TO FERC **5/3/10**

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

MITIGATION PLAN COMPLETED YES  NO

EXPECTED COMPLETION DATE **4/30/10**  
EXTENSIONS GRANTED **N/A**  
ACTUAL COMPLETION DATE **4/29/10**

DATE OF CERTIFICATION LETTER **4/29/10**  
CERTIFIED COMPLETE BY REGISTERED ENTITY AS OF **4/29/10**

DATE OF VERIFICATION LETTER **6/4/10**  
VERIFIED COMPLETE BY REGIONAL ENTITY AS OF **4/29/10**

ACTIONS TAKEN TO MITIGATE THE ISSUE AND PREVENT RECURRENCE

**To correct the violation of NERC Reliability Standard PRC-005-1 R1, Blackhawk has completed the following actions detailed in its Mitigation Plan:**

- **Blackhawk developed a complete list of Protection System devices that affect the reliability of the BPS, including protective relays, current and voltage sensing devices, DC control circuitry, and station batteries.**
- **Blackhawk's Protection System and Maintenance program: (1) identified the maintenance and testing intervals for each category of Protection Systems (*i.e.*, Protective Relays, associated communication systems, DC control circuitry, voltage and current sensing devices (*i.e.*, current transformers and potential transformers), and station batteries—with intervals based on equipment manufacturer recommendations and established best industry practices; (2) identified the basis for each maintenance and testing interval; and (3) summarized the maintenance and testing procedures for each category of Protection Systems.**
- **Blackhawk revised its Protection System and Maintenance program to include an annual review to ensure that it is fully compliant with the requirements of PRC-005.**
- **Blackhawk trained its plant personnel on the revised Protection System and Maintenance program.**

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

- **RCP-NERC-Attachment 17 Protection System Maintenance and Testing Program**
- **NETA Maintenance Intervals**
- **SPP LTR 5-26-10**

EXHIBITS:

SOURCE DOCUMENT  
**SPP RE's Compliance Audit Report for Blackhawk's violation of PRC-005-1 R1 dated August 24, 2009**

MITIGATION PLAN  
**Blackhawk's Mitigation Plan MIT-09-2460 for PRC-005-1 R1 submitted April 8, 2010**

CERTIFICATION BY REGISTERED ENTITY  
**Blackhawk's Certification of Mitigation Plan Completion for PRC-005-1 R1 dated April 29, 2010**

**REGIONAL ENTITY'S VERIFICATION  
SPP RE's Verification of Mitigation Plan Completion for PRC-005-1 R1  
dated June 4, 2010<sup>4</sup>**

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<sup>4</sup> The Verification of Mitigation Plan Completion incorrectly refers to the PRC-005-1 R2 violation instead of the PRC-005-1 R1 violation.

## **Disposition Document for PRC-005-1 R2**



## DISPOSITION OF VIOLATION

December 17, 2010

NERC TRACKING NO.	REGIONAL ENTITY TRACKING NO.
<b>SPP200900103</b>	<b>2009-033</b>

### I. VIOLATION INFORMATION

RELIABILITY STANDARD	REQUIREMENT(S)	SUB-REQUIREMENT(S)	VRF(S)	VSL(S)
<b>PRC-005-1</b>	<b>R2</b>	<b>2.1, 2.2</b>	<b>High<sup>1</sup></b>	<b>Severe</b>

VIOLATION APPLIES TO THE FOLLOWING FUNCTIONS:

BA	DP	GO	GOP	IA	LSE	PA	PSE	RC	RP	RSG	TO	TOP	TP	TSP
		X												

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

**The purpose statement of PRC-005-1 provides: “To ensure all transmission and generation Protection Systems affecting the reliability of the Bulk Electric System (BES) are maintained and tested.”<sup>2</sup>**

**PRC-005-1 R2 provides:**

**Each Transmission Owner and any Distribution Provider that owns a transmission Protection System and each Generator Owner that owns a generation Protection System shall provide documentation of its Protection System maintenance and testing program and the implementation of that program to its Regional Reliability Organization<sup>3</sup> on request (within 30 calendar days). The documentation of the program implementation shall include:**

<sup>1</sup> PRC-005-1 R2 has a “Lower” Violation Risk Factor (VRF); R2.1 and R2.2 each have a “High” VRF. During a final review of the standards subsequent to the March 23, 2007 filing of the Version 1 VRFs, NERC identified that some standards requirements were missing VRFs; one of these include PRC-005-1 R2.1. On May 4, 2007, NERC assigned PRC-005 R2.1 a “High” VRF. In the Commission’s June 26, 2007 Order on Violation Risk Factors, the Commission approved the PRC-005-1 R2.1 “High” VRF as filed. Therefore, the “High” VRF was in effect from June 26, 2007. In the context of this case, SPP RE determined that the violation related to both 2.1 and 2.2, and therefore a “High” VRF is appropriate in this case.

<sup>2</sup> *The NERC Glossary of Terms Used in Reliability Standards* defines Protection System as “Protective relays, associated communication systems, voltage and current sensing devices, station batteries and DC control circuitry.”

<sup>3</sup> Consistent with applicable FERC precedent, the term “Regional Reliability Organization” in this context refers to SPP RE.

**R2.1. Evidence Protection System devices were maintained and tested within the defined intervals.**

**R2.2. Date each Protection System device was last tested/maintained.**

VIOLATION DESCRIPTION

**During the July 20, 2009 through July 24, 2009 off-site Compliance Audit, the SPP RE audit team determined that Blackhawk had not tested any of its Protection System devices within established intervals. Specifically, it was determined that Blackhawk could not provide testing records for its twenty-one (21) protective relays, one (1) station battery, twelve (12) current and voltage sensing transformers, and twenty-one (21) DC Control Circuitry devices.**

RELIABILITY IMPACT STATEMENT- POTENTIAL AND ACTUAL

**The SPP RE determined Blackhawk’s violation of PRC-005-1 R1 did not represent a serious or substantial risk to the bulk power system (BPS). Blackhawk operates two generators with a combined generating capacity of 230 MW. The generation facility is connected to the BES at a 115 kV substation that is owned and operated by Blackhawk’s transmission service provider. Additionally, the transmission service provider owns and operates other protection systems in the substation that provide a measure of redundancy for protection of the BES. Because of the size of the generators and the fact that they are connected to the BES at a low voltage substation owned and operated by the transmission service provider, the SPP RE has determined the risk to the BES is minimal.**

**II. 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) 6/18/07 (when the Standard became mandatory and enforceable) through 10/17/10 (Mitigation Plan completion)**

**DATE DISCOVERED BY OR REPORTED TO REGIONAL ENTITY 7/24/09**

IS THE VIOLATION STILL OCCURRING

YES  NO

IF YES, EXPLAIN

REMEDIAL ACTION DIRECTIVE ISSUED	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
PRE TO POST JUNE 18, 2007 VIOLATION	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>

### III. MITIGATION INFORMATION

FOR FINAL ACCEPTED MITIGATION PLAN:

MITIGATION PLAN NO. **MIT-09-2461**  
 DATE SUBMITTED TO REGIONAL ENTITY **4/8/10**  
 DATE ACCEPTED BY REGIONAL ENTITY **4/16/10**  
 DATE APPROVED BY NERC **4/30/10**  
 DATE PROVIDED TO FERC **5/3/10**

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

N/A

MITIGATION PLAN COMPLETED YES  NO

EXPECTED COMPLETION DATE **6/30/11**  
 EXTENSIONS GRANTED **N/A**  
 ACTUAL COMPLETION DATE **10/17/10**

DATE OF CERTIFICATION LETTER **11/22/10**  
 CERTIFIED COMPLETE BY REGISTERED ENTITY AS OF **10/17/10**

DATE OF VERIFICATION LETTER **12/03/2010**  
 VERIFIED COMPLETE BY REGIONAL ENTITY AS OF **10/17/10**

ACTIONS TAKEN TO MITIGATE THE ISSUE AND PREVENT RECURRENCE

**To correct the violation of NERC Reliability Standard PRC-005-1 R2, Blackhawk completed the following actions:**

- **Scheduled maintenance and testing for each Protection System device that it owns to occur no later than June 30, 2011.**
- **Documented subsequent maintenance and testing dates for its Protection Systems in its Protection System Maintenance and Testing Program. This documentation is set forth in RCP-NERC-Attachment 17, which will be filed in Blackhawk's Reliability Compliance Folder.**
- **Perform testing on the missing Protection System devices.**

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

- **Blackhawk Unit 1 Generator Relay Maintenance Testing -- 2/04/10**
- **Plugging, relay test, and operational check – CTG#2 – 4/12/10**
- **Plugging and operational check – CTG#1 – 10/05/10**
- **PRC-005 Protection System Maintenance and Testing Program – 11/09/2010 Rev. 3**

EXHIBITS:

SOURCE DOCUMENT

**SPP RE's Compliance Audit Report for Blackhawk's violation of PRC-005-1 R2 dated August 24, 2009**

MITIGATION PLAN

**Blackhawk's Mitigation Plan MIT-09-2461 for PRC-005-1 R2 submitted April 8, 2010**

CERTIFICATION BY REGISTERED ENTITY

**Blackhawk's Certification of Mitigation Plan Completion for PRC-005-1 R2 dated November 22, 2010**

VERIFICATION BY REGIONAL ENTITY

**SPP RE's Verification of Mitigation Plan Completion for PRC-005-1 R2 dated December 3, 2010**

## **Attachment b**

### **SPP RE's Compliance Audit Report for Blackhawk's violations of FAC-009-1 R1, PRC- 005-1 R1 and PRC-005-1 R2 dated August 7, 2009**



# **Compliance Audit Report Public**

**Confidential Information (including Privileged and  
Critical Energy Infrastructure Information)  
Has Been Removed**

**Borger Energy Associates, LP**  
NCR 01062

**Audit  
July 20-24, 2009**

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## Executive Summary

This public version of the final compliance audit report will be posted on the Southwest Power Pool Regional Entity's (SPP RE) and NERC websites. Confidential information has been redacted from this report. The report will be submitted to Borger Energy Associates, LP (BOEA) and to NERC after approval at the SPP RE level.

BOEA was scheduled for an off-site audit in 2009 as part of the NERC Compliance Monitoring and Enforcement Program (CMEP). BOEA is subject to an audit at least once every six years as provided by the NERC Rules of Procedure. The audit team reviewed the material provided by BOEA and additional information that was requested during the audit. After the SPP RE audit team reviewed the material, it developed the audit findings on BOEA's compliance to the standards.

SPP RE audit team reviewed 6 NERC Standards with the BOEA staff. Of the standards reviewed, the audit team found one requirement in one standard that did not apply to BOEA operations. The audit team reviewed the company evidence for each requirement in the standards with BOEA subject matter experts. BOEA provided evidence to support its compliance with the standards.

BOEA did not have any outstanding mitigations plans.

After reviewing the evidence presented by BOEA, the audit team found BOEA to be compliant with six applicable requirements in five applicable NERC Reliability Standards. The audit team identified four Possible Violations (PVs) associated with three NERC Reliability Standards. Possible Violations were associated with FAC-008-1: R1 (Facility Ratings Methodology), FAC-009-1: R1 (Establish and Communicate Facility Ratings), and PRC-005-1: R1, R2 (Transmission and Generation Protection System Maintenance and Testing).

These results and the basis for the PVs are further explained in the Findings in the Audit Results section of this report which includes detailed information of the audit team's determination of applicability and compliance for the Reliability Standards within the scope of the compliance audit. This information may be used to help determine the severity level of possible sanctions and penalties. These four PVs will be reported to the SPP RE Director and NERC. The possible violations will be processed through the SPP RE's NERC Compliance Monitoring and Enforcement Program. BOEA will receive letters from the SPP RE concerning the next steps in the process.

## Audit Process

The compliance audit process steps are detailed in the NERC CMEP. The NERC CMEP generally conforms to the United States Government Accountability Office Government Auditing Standards and other generally accepted audit practices.



## **Objectives**

All Registered Entities are subject to audit for compliance with all reliability standards applicable to the functions for which the Registered Entity is registered.<sup>1</sup> The audit objectives are:

- Independently review the company's compliance with the requirements of the NERC and regional reliability standards that are applicable to the company based on the company's registered functions.
- Validate compliance with applicable reliability standards from the NERC 2009 Implementation Plan list of actively monitored standards.
- Review self-reported violations and previous self-certifications, confirm compliance with other requirements of the reliability standard, and review the status of associated mitigation plans.
- Validate coordination with neighboring BAs, TOPs, and the Reliability Coordinator.
- Document the company's compliance culture.

## **Scope**

The compliance off-site audit includes all reliability standards applicable to the Registered Entity monitored in the NERC Implementation Plans in the current and two previous years, and may include other reliability standards applicable to the Registered Entity.

The Monitored Compliance Program includes 49 NERC Standards for audit in 2009. Forty-three of the Standards are not applicable to the BOEA registered functions. The audit team reviewed six standards off-site. One standard covering functions not performed by BOEA were not applicable to the company at this time.

The audit included questionnaires from the neighboring Balancing Authorities, Transmission Operators, and the Reliability Coordinator. Any identified issues found in the neighboring and Reliability Coordinator questionnaires were addressed during the audit.

If a company has an outstanding mitigation plan or has just completed a mitigation plan, the progress or completion of the plan was validated by the audit team. BOEA did not have any outstanding mitigations plans.

This audit report includes the findings from the off-site review of the company's evidence.

## **Confidentiality and Conflict of Interest**

Confidentiality agreements executed by the independent contractors and code of conduct documentation for the NERC representative and Regional Entity staff were provided to the SPP RE and the audited entity in advance of the audit. The work history of each audit team member

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<sup>1</sup> North American Electric Reliability Corporation CMEP, paragraph 3.1, Compliance Audits

was provided to SPP RE and the company. The company was given an opportunity to object to an audit team member on the basis of a possible conflict of interest or the existence of other circumstances that could interfere with the audit team member's impartial performance of duties. BOEA accepted the audit team member participants with no objections. SPP RE found no conflict of interest for any of the audit team members.

### ***Off-site Audit***

The off-site audit is part of the NERC Compliance Monitoring and Enforcement Program (CMEP). BOEA is subject to an audit once at least every six years as provided by the NERC Rules of Procedure. The off-site audit covers the 2009 NERC monitored standards, any Regional standards identified and possible other NERC standards listed in the pre-audit information. Companies on the 2009 off-site audit list were notified in the fall of 2008 about its upcoming audit and scheduled for the audit. Sixty days in advance, a letter explaining the audit was sent to the company. SPP RE sent the company a request for data and documents to complete. The pre-audit material included the audit team members, audit agenda, standards to be reviewed off-site, a pre-audit survey, the standards questionnaires, and the option to reject any audit team member. The pre-audit material received from the company provided the audit team an explanation on how the company operates for the functions for which it is registered.

The standards and supporting evidence to show compliance with the standards were reviewed with the company. The audit team received evidence supporting compliance with each requirement of the audited standards. Evidence included summary reports, company procedures, processes, work schedules, training schedules, on-line tools, data bases, and other sources.. The audit team reviewed the evidence for each standard and requirement with the company's subject matter experts. This process enabled the team to get immediate answers to questions that arose. This process also exposed other company staff to the audit process which helped solidify why a company follows certain procedures and processes. Any self-reported violations or open mitigation plans were reviewed by the audit team. The audit team used the evidence, the discussions with the company subject matter experts along with their professional judgment to decide on the recommended findings for the report.

The lead auditor presented the findings of the audit to the company staff. BOEA included several staff members for the presentation. The presentation covered the findings for the standards reviewed. The final report process was explained along with the security of the audit information. BOEA was informed that the public report will be posted on the NERC and SPP RE websites after all due processes are complete. BOEA was also notified that a post-audit questionnaire will be provided for them to make any comments about the audit or audit team. There was a question and answer session after the presentation. The lead auditor answered all the questions and thanked BOEA for its effort.

### ***Methodology***

The audit team reviewed the evidence supplied by the company for each requirement of all NERC standards that apply to the functions performed by the company to determine if the company complied with that requirement. The company would be found to be noncompliant with requirements where compliance cannot be confirmed.

The audit was conducted using a teleconference with a WebEx for document review by the audit team. The audit team members completed individual assignments during the audit process. BOEA provided subject matter experts as the audit team reviewed the standards with them. The subject matter experts explained the evidence and answered all questions the team asked. BOEA shared most of its evidence on the WebEx. The WebEx presentation was very useful since all of the team could simultaneously review the evidence.

The audit team held a separate conference call after the company presented evidence. The team reviewed each requirement and discussed the levels of compliance and addressed each team member's notes from the audit. The audit team decided on the findings to present to the company and the SPP RE. The audit team developed the closing presentation of audit findings. The lead auditor gave the presentation to the BOEA staff and answered their questions.

### ***Audit Overview***

At the beginning of the audit, the audit process was discussed with the company personnel to verify if any changes to the agenda were warranted. There were no changes identified by either party.

### ***Audit***

The BOEA audit was performed as planned. The agenda was followed with only minor staff adjustments.

### ***Exit Briefing***

The audit team gave an exit presentation for the BOEA staff. The team lead explained the findings from the audit. The presentation included the BOEA staff that participated in the audit and other staff. The presentation was open for comments and discussion about the findings. The exit presentation also covered any possible violations and mitigation requirements. BOEA was informed that it will receive an audit evaluation to complete and return to NERC.

The audit team used the exit presentation to help verify that the information presented is correct.

### ***Company Profile***

BOEA performs the following NERC functions and is registered with NERC/SPP RE for the following function:

- Generator Owner

The Blackhawk Station is owned by BOEA which is registered as the GO. BOEA has an Agreement with Power Plant Management Services, LLC (PPMS) to provide general asset

management for BOEA and PPMS represents BOEA as the GO. BOEA also has an agreement with NAES Corporation (NAES) to provide operation and maintenance services for the plant. NAES Blackhawk (NAESBLACKH) has day-to-day care, custody and control of the facility and is registered as the GOP.

The Blackhawk Station, located in Borger, Texas, is a natural gas fired cogeneration steam plant that supplies steam to a local refinery and electricity to Xcel – Southwestern Public Service (Xcel/SPS). The plant consists of two units each with a peak capacity of 115 MW for a total plant capacity of 230 MW. The plant is base loaded with generation largely determined by the steam customer requirements but can run at a somewhat elevated or reduced generation at the request of Xcel Energy (a division of Xcel). The plant is connected to the transmission system at 115 kV. Xcel/SPS is the Balancing Authority and Transmission Operator of the transmission system at the Blackhawk connection. SPP is the Reliability Coordinator for Blackhawk.

### **Audit Specifics**

The compliance audit was conducted on July 20-24, 2009 from the SPP RE offices office in Little Rock, AR with the BOEA staff in Borger, TX with part of the audit team and company staff in various other offices. The BOEA audit was conducted concurrently with the NAESBLACKH, the generator operator. Both audits involved the same personnel but the GO and GOP functions were separated into individual audits and reports.

### **Audit Team**

<b>Title</b>	<b>Company</b>
Lead Compliance Specialist	SPP RE
SPP RE, Lead Engineer	SPP RE
SPP RE Contractor	SPP RE
SPP RE Contractor	SPP RE

### **BOEA Audit Participants**

<b>Title</b>	<b>Organization</b>
Projects General Manager	PPMS
Plant Manager	NAESBLACKH
EHS Coordinator	NAESBLACKH
Operations Supervisor	NAESBLACKH
Maintenance Supervisor	NAESBLACKH
Project Engineer	NAESBLACKH
Project Manager	NAES

## Audit Results

BOEA did not have any violations or mitigation plans open for review during this audit. After reviewing the evidence presented by BOEA, the audit team found BOEA to be compliant with six applicable requirements in five applicable NERC Reliability Standards. The audit team identified four Possible Violations (PVs) associated with three NERC Reliability Standards. Possible Violations were associated with FAC-008-1: R1 (Facility Ratings Methodology), FAC-009-1: R1 (Establish and Communicate Facility Ratings), and PRC-005-1: R1, R2 (Transmission and Generation Protection System Maintenance and Testing).

Senior management attended both the opening and closing presentations. BOEA was prepared for the audit and presented its documentation in a concise manner. BOEA subject matter experts presented the material supporting its compliance to the standard requirements for their area. They demonstrated that BOEA is striving to improve its compliance program.

Prior to being forwarded to SPP RE Executive Director of Compliance for review and approval as SPP RE's Final Public audit Report for BOEA, the content and accuracy of this report:

- Is reviewed and commented on by all audit team members
- Is reviewed by BOEA's management for correction and comment, and
- Is reviewed and approved by the Audit Team Lead

Upon final disposition of any possible violations determined by the audit team, if any, and redaction of appropriate information contained herein, this report will be reviewed and approved by SPP RE's Executive Director of Compliance before being issued as SPP RE's Final Public Audit Report of BOEA.

## **Findings**

### **BOEA Off-site Audit Findings**

\*N/A – Not Applicable

PV –Possible Violation

<b>Reliability Standard</b>	<b>Requirement</b>	<b>Finding</b>
FAC-008-1	R1.	PV
FAC-008-1	R2.	Compliant
FAC-008-1	R3.	Compliant
FAC-009-1	R1.	PV
FAC-009-1	R2.	Compliant
IRO-004-1	R4.	Compliant
PRC-004-1	R2.	Compliant
PRC-004-1	R3.	Compliant
PRC-005-1	R1.	PV
PRC-005-1	R2.	PV
PRC-017-0	R1.	N/A

## **Compliance Culture**

BOEA completed a questionnaire prior to the compliance audit. BOEA stated that its compliance program is managed by the local site personnel with assistance from the corporate support. The Plant Manager also holds the title of Compliance Manager for both BOEA and NAESBLACKH. The Projects General Manager who works for PPMS is the Reliability Compliance Officer for BOEA. The Projects General Manager has access to the officers of BOEA. BOEA established Reliability Compliance Team consisting of the EHS Coordinator, the Operations Supervisor, and the Maintenance Supervisor.

With the Plant Manager also performing the Compliance Manager duties, the compliance program is not independent from the departments responsible for performance to the reliability standards; however NAES has a corporate compliance officer who performs routine reviews of the plant compliance program. BOEA does not have a formal procedure for self-assessment and self-enforcement of internal controls but the NAES corporate compliance officer visits the plant and reviews the Blackhawk compliance program to ensure that it is meeting the requirements.

They have participated in the regional workshops, survey activities, self certification process, and spot checks. The BOEA Reliability Compliance Team members conduct annual training for compliance in which each standard and the Plant Managers Standing Orders are reviewed and discussed. Additional training is provided for the Reliability Compliance Team through attendance of SPP regional compliance workshops and other training opportunities. Each Control Room Operator must review the standards and sign the qualification card verifying that the standards have been reviewed and are understood.

Overall, the staff is aware of the importance of continual compliance.

## **Post Audit Activities**

This report was reviewed:

Approved by Ronald W. Ciesiel, Executive Director of Compliance, SPP RE

Date: November 6, 2009

## **Attachment c**

**Blackhawk's Mitigation Plan MIT-07-2459 for  
FAC-009-1 R1 submitted April 8, 2010**



## **Mitigation Plan**

Mitigation Plan submitted on: **Apr 08, 2010**

Mitigation Plan Completed (Yes/No):

Mitigation Plan Completed On:

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## **Section A: Compliance Notices**

• Section 6.2 of the NERC CMEP<sup>1</sup> sets forth the information that must be included in a Mitigation Plan. The Mitigation Plan must include:

(1) The Registered Entity's point of contact for the Mitigation Plan, who shall be a person (i) responsible for filing the Mitigation Plan, (ii) technically knowledgeable regarding the Mitigation Plan, and (iii) authorized and competent to respond to questions regarding the status of the Mitigation Plan. This person may be the Registered Entity's point of contact described in Section B.

(2) The Alleged or Confirmed Violation(s) of Reliability Standard(s) the Mitigation Plan will correct.

(3) The cause of the Alleged or Confirmed Violation(s).

(4) The Registered Entity's action plan to correct the Alleged or Confirmed Violation(s).

(5) The Registered Entity's action plan to prevent recurrence of the Alleged or Confirmed violation(s).

(6) The anticipated impact of the Mitigation Plan on the bulk power system reliability and an action plan to mitigate any increased risk to the reliability of the bulk power-system while the Mitigation Plan is being implemented.

(7) A timetable for completion of the Mitigation Plan including the completion date by which the Mitigation Plan will be fully implemented and the Alleged or Confirmed Violation(s) corrected.

(8) Implementation milestones no more than three (3) months apart for Mitigation Plans with expected completion dates more than three (3) months from the date of submission. Additional violations could be determined or recommended to the applicable governmental authorities for not completing work associated with accepted milestones.<sup>2</sup>

(9) Any other information deemed necessary or appropriate.

(10) The Mitigation Plan shall be signed by an officer, employee, attorney or other authorized representative of the Registered Entity, which if applicable, shall be the person that signed the Self Certification or Self Reporting submittals.

(11) This submittal form may be used to provide a required Mitigation Plan for review and approval by regional entity(ies) and NERC.

• The Mitigation Plan shall be submitted to the regional entity(ies) and NERC as confidential information in accordance with Section 1500 of the NERC Rules of Procedure.

1. Uniform Compliance Monitoring and Enforcement Program ("NERC CMEP") of the North American Electric Reliability Corporation (a copy of the current version approved by the Federal Energy Regulatory Commission is posted on NERC's website.) Or the North American Electric Reliability Corporation Compliance Monitoring and Enforcement Program – Province of Manitoba, Schedule "B" to the Interim Agreement on Compliance Monitoring and Enforcement in Manitoba between NERC, the Regional Entity, and Manitoba Hydro (available upon request from the Regional Entity).

2. Implementation milestones that precede the date that a Mitigation Plan becomes effective in Manitoba will be considered to be extended until the date that the Mitigation Plan becomes effective.

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- This Mitigation Plan form may be used to address one or more related alleged or confirmed violations of one Reliability Standard. A separate mitigation plan is required to address alleged or confirmed violations with respect to each additional Reliability Standard, as applicable.
- If the Mitigation Plan is accepted by regional entity(ies) and approved by NERC, a copy of this Mitigation Plan will be provided to the Federal Energy Regulatory Commission or filed with the applicable governmental authorities for approval in Canada.
- Regional Entity(ies) or NERC may reject Mitigation Plans that they determine to be incomplete or inadequate.
- Remedial action directives also may be issued as necessary to ensure reliability of the bulk power system.
- The user has read and accepts the conditions set forth in these Compliance Notices.

## **Section B: Registered Entity Information**

### **B.1**

Identify your organization:

Entity Name: ***Borger Energy Associates, LP***

Address: ***PO Box 29, Borger, Texas 79008, United States***

NERC Compliance Registry ID: *[If known]* ***NCR01062***

### **B.2**

Identify the individual in your organization who will serve as the Contact to Regional Entity regarding this Mitigation Plan. This person shall be technically knowledgeable regarding this Mitigation Plan and authorized to respond to Regional Entity regarding this Mitigation Plan.:

Name: ***David Coke***

Title: ***Projects General Manager***

Email: ***dcoke@ppmsllc.com***

Phone: ***817-616-1016***

## **Section C: Identity of Reliability Standard Violation associated with this Mitigation Plan**

### **C.1**

This Mitigation Plan is associated with the following violation(s) of the reliability standard listed below:

Standard Requirement: **FAC-009-1 R1**

Description: ***The Transmission Owner and Generator Owner shall each establish Facility Ratings for its solely and jointly owned Facilities that are consistent with the associated Facility Ratings Methodology.***

Violation Date: **Jul 24, 2009**

### **C.2**

Identify the cause of the violation(s) identified above:

***FAC-009-1, R1 (Establish and Communicate Facility Ratings, Generator Owner function): The Southwest Power Pool Regional Entity (?SPPRE?) undertook an off-site audit of Borger Energy Associates, LP (?BOEA?) on July 20-24, 2009 (?Audit?). The Audit team informed BOEA that with respect to FAC-009-1, R1, BOEA did not determine its Facility Rating consistent with its Facility Rating Methodology (?FRM?). Specifically, the Audit team found that the BOEA equipment ratings did not include the following items, which were included in its FRM: generator phase bus, transmission conductors, relay protective devices, series and shunt compensation devices, normal and emergency ratings or ambient conditions.***

### **C.3**

Provide any relevant information regarding the violations associated with this Mitigation Plan: *[If known]*

## **Section D: Details of Proposed Mitigation Plan**

### **Mitigation Plan Contents**

#### **D.1**

Identify and describe the action plan, including specific tasks and actions that your organization is proposing to undertake, or which it undertook if this Mitigation Plan has been completed, to correct the violation(s) identified above in Section C.1 of this form:

***BOEA does not own or operate any Terminal Equipment, Transmission Conductors or Series and Shunt Compensation devices. This will be annotated in the Facility Ratings (RCP-NERC-Attachment 33).***

### **Mitigation Plan Timeline and Milestones**

#### **D.2**

Provide the timetable for completion of the Mitigation Plan, including the completion date by which the Mitigation Plan will be fully implemented and the violations associated with this Mitigation Plan are corrected: ***Mar 11, 2010***

#### **D.3**

Milestone Activities, with completion dates, that your organization is proposing for this Mitigation Plan:

<b>Milestone Activity</b>	<b>*Proposed Completion Date (Shall not be greater than 3 months apart)</b>	<b>Actual Completion Date</b>
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(\*) Note: Implementation milestones no more than three (3) months apart for Mitigation Plans with expected completion dates more than three (3) months from the date of submission. Additional violations could be determined for not completing work associated with accepted milestones.

### **Additional Relevant Information (Optional)**

#### **D.4**

If you have any relevant additional information that you wish to include regarding the mitigation plan, milestones, milestones dates and completion date proposed above you may include it here:

## **Section E: Interim and Future Reliability Risk**

### **Abatement of Interim BPS Reliability Risk**

#### **E.1**

While your organization is implementing the Mitigation Plan proposed in Section D of this form, the reliability of the Bulk Power System may remain at higher risk or be otherwise negatively impacted until the plan is successfully completed. To the extent they are, or may be, known or anticipated: (i) identify any such risks or impacts; and (ii) discuss any actions that your organization is planning to take or is proposing as part of the Mitigation Plan to mitigate any increased risk to the reliability of the bulk power system while the Mitigation Plan is being implemented:

***BOEA does not believe the reliability of the Bulk Power System was negatively impacted during implementation of this mitigation plan because (1) BOEA does not own or operate terminal equipment, transmission conductors or series and shunt compensation devices; (2) neither generator phase bus nor relay protective devices are the most limiting component of the BOEA facility, therefore, the statement in Attachment 33 that the generator is the most limiting component remains accurate during the implementation of this mitigation plan; and (3) the equipment ratings were developed considering ambient conditions, although Attachment 33 did not specifically indicate the ambient conditions.***

### **Prevention of Future BPS Reliability Risk**

#### **E.2**

Describe how successful completion of the Mitigation Plan as laid out in Section D of this form will prevent or minimize the probability that your organization incurs further violations of the same or similar reliability standards requirements in the future:

***Successful completion of this mitigation plan will ensure that equipment ratings are provided for all devices owned by BOEA consistent with BOEA's FRM. The measures undertaken as set forth in this mitigation plan will ensure BOEA's compliance with FAC-009,-1, R1.***

#### **E.3**

Your organization may be taking or planning other action, beyond that listed in the Mitigation Plan, as proposed in Section D.1, to prevent or minimize the probability of incurring further violations of the same or similar standards requirements listed in Section C.1, or of other reliability standards. If so, identify and describe any such action, including milestones and completion dates:

## **Section F: Authorization**

An authorized individual must sign and date the signature page. By doing so, this individual, on behalf of your organization:

- (a) Submits the Mitigation Plan, as laid out in Section D, to the Regional Entity for acceptance and approval by NERC, and
- (b) If applicable, certifies that the Mitigation Plan, as laid out in Section D of this form, was completed (i) as laid out in Section D of this form and (ii) on or before the date provided as the 'Date of Completion of the Mitigation Plan' on this form, and
- (c) Acknowledges:
  - 1. I am **Projects General Manager** of **Borger Energy Associates, LP**.
  - 2. I am qualified to sign this Mitigation Plan on behalf of **Borger Energy Associates, LP**.
  - 3. I have read and understand **Borger Energy Associates, LP's** obligations to comply with Mitigation Plan requirements and ERO remedial action directives as well as ERO documents, including, but not limited to, the NERC Rules of Procedure and the NERC CMEP currently in effect or the NERC CMEP-Province of Manitoba, Schedule B currently in effect, whichever is applicable.
  - 4. I have read and am familiar with the contents of the foregoing Mitigation Plan.
  - 5. **Borger Energy Associates, LP** agrees to be bound by, and comply with, this Mitigation Plan, including the timetable completion date, as accepted by the Regional Entity, NERC, and if required, the applicable governmental authorities in Canada.

**Authorized Individual Signature** \_\_\_\_\_

(Electronic signature was received by the Regional Office via CDMS. For Electronic Signature Policy see CMEP.)

Name: **David Coke**

Title: **Projects General Manager**

Authorized On: **Apr 08, 2010**



## **Attachment d**

**Blackhawk's Mitigation Plan MIT-09-2460 for  
PRC-005-1 R1 submitted April 8, 2010**

## **Mitigation Plan**

Mitigation Plan submitted on: **Apr 08, 2010**

Mitigation Plan Completed (Yes/No):

Mitigation Plan Completed On:

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## **Section A: Compliance Notices**

• Section 6.2 of the NERC CMEP<sup>1</sup> sets forth the information that must be included in a Mitigation Plan. The Mitigation Plan must include:

(1) The Registered Entity's point of contact for the Mitigation Plan, who shall be a person (i) responsible for filing the Mitigation Plan, (ii) technically knowledgeable regarding the Mitigation Plan, and (iii) authorized and competent to respond to questions regarding the status of the Mitigation Plan. This person may be the Registered Entity's point of contact described in Section B.

(2) The Alleged or Confirmed Violation(s) of Reliability Standard(s) the Mitigation Plan will correct.

(3) The cause of the Alleged or Confirmed Violation(s).

(4) The Registered Entity's action plan to correct the Alleged or Confirmed Violation(s).

(5) The Registered Entity's action plan to prevent recurrence of the Alleged or Confirmed violation(s).

(6) The anticipated impact of the Mitigation Plan on the bulk power system reliability and an action plan to mitigate any increased risk to the reliability of the bulk power-system while the Mitigation Plan is being implemented.

(7) A timetable for completion of the Mitigation Plan including the completion date by which the Mitigation Plan will be fully implemented and the Alleged or Confirmed Violation(s) corrected.

(8) Implementation milestones no more than three (3) months apart for Mitigation Plans with expected completion dates more than three (3) months from the date of submission. Additional violations could be determined or recommended to the applicable governmental authorities for not completing work associated with accepted milestones.<sup>2</sup>

(9) Any other information deemed necessary or appropriate.

(10) The Mitigation Plan shall be signed by an officer, employee, attorney or other authorized representative of the Registered Entity, which if applicable, shall be the person that signed the Self Certification or Self Reporting submittals.

(11) This submittal form may be used to provide a required Mitigation Plan for review and approval by regional entity(ies) and NERC.

• The Mitigation Plan shall be submitted to the regional entity(ies) and NERC as confidential information in accordance with Section 1500 of the NERC Rules of Procedure.

1. Uniform Compliance Monitoring and Enforcement Program ("NERC CMEP") of the North American Electric Reliability Corporation (a copy of the current version approved by the Federal Energy Regulatory Commission is posted on NERC's website.) Or the North American Electric Reliability Corporation Compliance Monitoring and Enforcement Program – Province of Manitoba, Schedule "B" to the Interim Agreement on Compliance Monitoring and Enforcement in Manitoba between NERC, the Regional Entity, and Manitoba Hydro (available upon request from the Regional Entity).

2. Implementation milestones that precede the date that a Mitigation Plan becomes effective in Manitoba will be considered to be extended until the date that the Mitigation Plan becomes effective.

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- This Mitigation Plan form may be used to address one or more related alleged or confirmed violations of one Reliability Standard. A separate mitigation plan is required to address alleged or confirmed violations with respect to each additional Reliability Standard, as applicable.
- If the Mitigation Plan is accepted by regional entity(ies) and approved by NERC, a copy of this Mitigation Plan will be provided to the Federal Energy Regulatory Commission or filed with the applicable governmental authorities for approval in Canada.
- Regional Entity(ies) or NERC may reject Mitigation Plans that they determine to be incomplete or inadequate.
- Remedial action directives also may be issued as necessary to ensure reliability of the bulk power system.
- The user has read and accepts the conditions set forth in these Compliance Notices.

## **Section B: Registered Entity Information**

### **B.1**

Identify your organization:

Entity Name: ***Borger Energy Associates, LP***

Address: ***PO Box 29, Borger, Texas 79008, United States***

NERC Compliance Registry ID: *[If known]* ***NCR01062***

### **B.2**

Identify the individual in your organization who will serve as the Contact to Regional Entity regarding this Mitigation Plan. This person shall be technically knowledgeable regarding this Mitigation Plan and authorized to respond to Regional Entity regarding this Mitigation Plan.:

Name: ***David Coke***

Title: ***Projects General Manager***

Email: ***dcoke@ppmsllc.com***

Phone: ***817-616-1016***

## **Section C: Identity of Reliability Standard Violation associated with this Mitigation Plan**

### **C.1**

This Mitigation Plan is associated with the following violation(s) of the reliability standard listed below:

Standard Requirement: **PRC-005-1 R1**

Description: ***Each Transmission Owner and any Distribution Provider that owns a transmission Protection System and each Generator Owner that owns a generation Protection System shall have a Protection System maintenance and testing program for Protection Systems that affect the reliability of the BES. The program shall include:***

Violation Date: ***Jul 24, 2009***

### **C.2**

Identify the cause of the violation(s) identified above:

***During a compliance audit that was conducted on July 20-24, 2009 from the SPP RE office in Little Rock, AR with the BOEA staff in Borger, TX with part of the audit team and company staff in various other offices. The Audit Team finds that BOEA is in a Possible Violation for the following NERC Standards:***

***PRC-005-1, R1 (Transmission and Generation Protection System Maintenance and Testing):***

***For R1.1: The BOEA Protective System maintenance and testing program does not include all of the components of protective systems as defined by NERC. It does not include communications related to protections systems, or CT and PT testing and maintenance. The testing and maintenance program did not clearly cover DC control circuits without referring to the actual test results. These items were not included in the maintenance and testing intervals. The basis for the intervals was not included in the program.***

***For R1.2: BOEA did not provide a summary of the maintenance and testing procedures for components of protection systems. Procedures for some items were not included in the program without obtaining additional manufacturer documents.***

### **C.3**

Provide any relevant information regarding the violations associated with this Mitigation Plan: *[If known]*  
***BOEA has experienced several instances of protective system activation from various events within the confines of BOEA and on the Bulk Power System, such as an event that occurred on December 19th, 2008. The Unit #1 Generator tripped offline due to the pick-up of the 59N (Neutral overvoltage relay) which tripped the 86G1 and 86G generator lockout relays. This event was confirmed as accurate through an investigation which showed a short in the generator stator which was then required to be rewound. In this case, and all others, BOEA protective systems responded as designed.***

***Since commissioning, the generator protective relay system at BOEA is comprised of smart sensing devices that poll points for failure at intervals of less than one second. This internal***

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*function is capable of monitoring and reporting any malfunctions of the generator protective system to the DCS, which ensures that the operators are aware at all times that the generator protective relay system is operating normally.*

*BOEA has calibrated and tested the Protection System devices associated with its transformer protective system. These calibrations were performed on a three year cycle beginning in 1998. These include full functional checks of the relays and ensuring they trip in within their designed trip time.*

*On November 3, 2009 BOEA began an annual visual inspection program on its voltage and current sensing devices and their associated wiring. It is well known in the industry that visual inspections of devices help to ensure the proper feedback and functionality of these sensing devices.*

## **Section D: Details of Proposed Mitigation Plan**

### **Mitigation Plan Contents**

#### **D.1**

Identify and describe the action plan, including specific tasks and actions that your organization is proposing to undertake, or which it undertook if this Mitigation Plan has been completed, to correct the violation(s) identified above in Section C.1 of this form:

***BOEA has utilized all available resources, including the NAES project management team, the NAES engineering team, and a third party contractor; and has developed a complete list of Protection System devices that affect the reliability of the Bulk Electric System, including protective relays, current and voltage sensing devices, DC control circuitry, and station batteries. During this assessment, BOEA considered whether it owned or operated any Communication Systems associated with its Protection Systems, and has concluded that it does not.***

***BOEA has engaged Zachry, Inc., a contractor with previous experience in developing Protection System maintenance and testing programs in the SPP region to assist BOEA in developing its Protection System Maintenance and Testing Program (?Program?).***

***This Program will encompass the full scope of PRC-005-1, R1. Specifically, the Program will: (1) identify the maintenance and testing intervals for each category of Protection Systems, i.e., Protective Relays, associated communication systems (recognizing that there are presently none), DC control circuitry, voltage and current sensing devices (i.e., current transformers and potential transformers), station batteries; which intervals will be based on equipment manufacturer recommendations and established best industry practices; (2) identify the basis for each such maintenance and testing interval; (3) summarize the maintenance and testing procedures for each category of Protection Systems.***

***BOEA also will revise its Program documentation to describe its management of change procedures, which will ensure that changes to or the addition of any Protection System device is included within the Program. Further, the revised Program will include a commitment to review the Program annually to ensure that it is fully compliant with the requirements of PRC-005, as amended from time to time.***

***Finally, BOEA will train its plant personnel on the revised Program.***

### **Mitigation Plan Timeline and Milestones**

#### **D.2**

Provide the timetable for completion of the Mitigation Plan, including the completion date by which the Mitigation Plan will be fully implemented and the violations associated with this Mitigation Plan are corrected: ***Apr 30, 2010***

#### **D.3**

Milestone Activities, with completion dates, that your organization is proposing for this Mitigation Plan:



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Milestone Activity	*Proposed Completion Date (Shall not be greater than 3 months apart)	Actual Completion Date
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(\*) Note: Implementation milestones no more than three (3) months apart for Mitigation Plans with expected completion dates more than three (3) months from the date of submission. Additional violations could be determined for not completing work associated with accepted milestones.

**Additional Relevant Information (Optional)**

**D.4**

If you have any relevant additional information that you wish to include regarding the mitigation plan, milestones, milestones dates and completion date proposed above you may include it here:

## **Section E: Interim and Future Reliability Risk**

### **Abatement of Interim BPS Reliability Risk**

#### **E.1**

While your organization is implementing the Mitigation Plan proposed in Section D of this form, the reliability of the Bulk Power System may remain at higher risk or be otherwise negatively impacted until the plan is successfully completed. To the extent they are, or may be, known or anticipated: (i) identify any such risks or impacts; and (ii) discuss any actions that your organization is planning to take or is proposing as part of the Mitigation Plan to mitigate any increased risk to the reliability of the bulk power system while the Mitigation Plan is being implemented:

***There may be a continued increased risk to the reliability of the Bulk Power System during the implementation of this mitigation plan due to the lack of documentation sufficient to comply with PRC-005-1, R1. Any such risk or negative impact will be reduced and mitigated as BOEA completes each of the identified milestones, which upon completion will ensure the upkeep of all Protection System devices in accordance with the requirements of PRC-005-1, R1. Moreover, during the implementation of this mitigation plan, the following should serve to further reduce or mitigate any increased risk to or negative impact on the reliability of the Bulk Power System:***

***The protective relay system at BOEA is comprised of smart sensing devices that polls points for failure at intervals of less than one second. This internal function is capable of monitoring and reporting any malfunctions of the generator protective system to the DCS, which ensures that the operators are aware at all times that the protective relay system is operating normally. BOEA has calibrated the Protection System devices associated with its transformer protective system. These calibrations were performed on a three year cycle beginning in 1998. These include full functional checks of the relays and ensuring they trip in within their designed trip time.***

***On November 3, 2009 BOEA began an annual visual inspection program on its voltage and current sensing devices and their associated wiring. It is well known in the industry that visual inspection devices help to ensure the proper feedback and functionality of these sensing devices.***

***BOEA's generation makes up only 0.348% of SPP's generation capability (~230MW vs. a total generation of ~66,175MWs), which limits its overall impact to the Bulk Electric System.***

### **Prevention of Future BPS Reliability Risk**

#### **E.2**

Describe how successful completion of the Mitigation Plan as laid out in Section D of this form will prevent or minimize the probability that your organization incurs further violations of the same or similar reliability standards requirements in the future:

***The successful completion of this mitigation plan will ensure that BOEA has documentation in place that complies with PRC-005-1, R1. Plant personnel will be trained on the procedures contained in the revised documentation, and those procedures will be used to complete maintenance and testing of Protection System devices in the future. These, activities along with BOEA's enhanced understanding of the requirements of PRC-005-1, will ensure that BOEA remains fully compliant with PRC-005-1, and avoids any risk of future violations.***

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**E.3**

Your organization may be taking or planning other action, beyond that listed in the Mitigation Plan, as proposed in Section D.1, to prevent or minimize the probability of incurring further violations of the same or similar standards requirements listed in Section C.1, or of other reliability standards. If so, identify and describe any such action, including milestones and completion dates:

## **Section F: Authorization**

An authorized individual must sign and date the signature page. By doing so, this individual, on behalf of your organization:

- (a) Submits the Mitigation Plan, as laid out in Section D, to the Regional Entity for acceptance and approval by NERC, and
- (b) If applicable, certifies that the Mitigation Plan, as laid out in Section D of this form, was completed (i) as laid out in Section D of this form and (ii) on or before the date provided as the 'Date of Completion of the Mitigation Plan' on this form, and
- (c) Acknowledges:
  - 1. I am **Projects General Manager** of **Borger Energy Associates, LP**.
  - 2. I am qualified to sign this Mitigation Plan on behalf of **Borger Energy Associates, LP**.
  - 3. I have read and understand **Borger Energy Associates, LP's** obligations to comply with Mitigation Plan requirements and ERO remedial action directives as well as ERO documents, including, but not limited to, the NERC Rules of Procedure and the NERC CMEP currently in effect or the NERC CMEP-Province of Manitoba, Schedule B currently in effect, whichever is applicable.
  - 4. I have read and am familiar with the contents of the foregoing Mitigation Plan.
  - 5. **Borger Energy Associates, LP** agrees to be bound by, and comply with, this Mitigation Plan, including the timetable completion date, as accepted by the Regional Entity, NERC, and if required, the applicable governmental authorities in Canada.

**Authorized Individual Signature** \_\_\_\_\_

(Electronic signature was received by the Regional Office via CDMS. For Electronic Signature Policy see CMEP.)

Name: **David Coke**

Title: **Projects General Manager**

Authorized On: **Apr 08, 2010**

## **Attachment e**

**Blackhawk's Mitigation Plan MIT-09-2461 for  
PRC-005-1 R2 submitted April 8, 2010**

## **Mitigation Plan**

Mitigation Plan submitted on: **Apr 08, 2010**

Mitigation Plan Completed (Yes/No):

Mitigation Plan Completed On:

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## **Section A: Compliance Notices**

• Section 6.2 of the NERC CMEP<sup>1</sup> sets forth the information that must be included in a Mitigation Plan. The Mitigation Plan must include:

(1) The Registered Entity's point of contact for the Mitigation Plan, who shall be a person (i) responsible for filing the Mitigation Plan, (ii) technically knowledgeable regarding the Mitigation Plan, and (iii) authorized and competent to respond to questions regarding the status of the Mitigation Plan. This person may be the Registered Entity's point of contact described in Section B.

(2) The Alleged or Confirmed Violation(s) of Reliability Standard(s) the Mitigation Plan will correct.

(3) The cause of the Alleged or Confirmed Violation(s).

(4) The Registered Entity's action plan to correct the Alleged or Confirmed Violation(s).

(5) The Registered Entity's action plan to prevent recurrence of the Alleged or Confirmed violation(s).

(6) The anticipated impact of the Mitigation Plan on the bulk power system reliability and an action plan to mitigate any increased risk to the reliability of the bulk power-system while the Mitigation Plan is being implemented.

(7) A timetable for completion of the Mitigation Plan including the completion date by which the Mitigation Plan will be fully implemented and the Alleged or Confirmed Violation(s) corrected.

(8) Implementation milestones no more than three (3) months apart for Mitigation Plans with expected completion dates more than three (3) months from the date of submission. Additional violations could be determined or recommended to the applicable governmental authorities for not completing work associated with accepted milestones.<sup>2</sup>

(9) Any other information deemed necessary or appropriate.

(10) The Mitigation Plan shall be signed by an officer, employee, attorney or other authorized representative of the Registered Entity, which if applicable, shall be the person that signed the Self Certification or Self Reporting submittals.

(11) This submittal form may be used to provide a required Mitigation Plan for review and approval by regional entity(ies) and NERC.

• The Mitigation Plan shall be submitted to the regional entity(ies) and NERC as confidential information in accordance with Section 1500 of the NERC Rules of Procedure.

1. Uniform Compliance Monitoring and Enforcement Program ("NERC CMEP") of the North American Electric Reliability Corporation (a copy of the current version approved by the Federal Energy Regulatory Commission is posted on NERC's website.) Or the North American Electric Reliability Corporation Compliance Monitoring and Enforcement Program – Province of Manitoba, Schedule "B" to the Interim Agreement on Compliance Monitoring and Enforcement in Manitoba between NERC, the Regional Entity, and Manitoba Hydro (available upon request from the Regional Entity).

2. Implementation milestones that precede the date that a Mitigation Plan becomes effective in Manitoba will be considered to be extended until the date that the Mitigation Plan becomes effective.

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- This Mitigation Plan form may be used to address one or more related alleged or confirmed violations of one Reliability Standard. A separate mitigation plan is required to address alleged or confirmed violations with respect to each additional Reliability Standard, as applicable.
- If the Mitigation Plan is accepted by regional entity(ies) and approved by NERC, a copy of this Mitigation Plan will be provided to the Federal Energy Regulatory Commission or filed with the applicable governmental authorities for approval in Canada.
- Regional Entity(ies) or NERC may reject Mitigation Plans that they determine to be incomplete or inadequate.
- Remedial action directives also may be issued as necessary to ensure reliability of the bulk power system.
- The user has read and accepts the conditions set forth in these Compliance Notices.



## **Section B: Registered Entity Information**

### **B.1**

Identify your organization:

Entity Name: ***Borger Energy Associates, LP***

Address: ***PO Box 29, Borger, Texas 79008, United States***

NERC Compliance Registry ID: ***[If known] NCR01062***

### **B.2**

Identify the individual in your organization who will serve as the Contact to Regional Entity regarding this Mitigation Plan. This person shall be technically knowledgeable regarding this Mitigation Plan and authorized to respond to Regional Entity regarding this Mitigation Plan.:

Name: ***David Coke***

Title: ***Project General Manager***

Email: ***dcoke@ppmsllc.com***

Phone: ***817-616-1016***

## **Section C: Identity of Reliability Standard Violation associated with this Mitigation Plan**

### **C.1**

This Mitigation Plan is associated with the following violation(s) of the reliability standard listed below:

Standard Requirement: **PRC-005-1 R2**

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

Violation Date: ***Jul 24, 2009***

### **C.2**

Identify the cause of the violation(s) identified above:

***The Southwest Power Pool Regional Entity (?SPPRE?) undertook an off-site audit of Borger Energy Associates, LP (?BOEA?) on July 20-24, 2009 (?Audit?). The Audit team informed BOEA that with respect to PRC-005-1, R2, ?BOEA did not provide evidence that the associated communications systems, the current and voltage sensing devices, or the DC control circuitry were tested in the interval specified by its program, nor did BOEA provide the last test dates for such devices. After further investigation, BOEA has concluded that it is unable to document maintenance and testing with respect to certain aspects of its Protection Systems. Specifically, the voltage and current sensing devices and the generator protective relays were not being tested or inspected since their initial commissioning date in 1998.***

### **C.3**

Provide any relevant information regarding the violations associated with this Mitigation Plan: *[If known]*

***There were activities undertaken at the plant to ensure that Protection Systems operated under normal operating parameters. For example, BOEA has experienced several instances of protective system activation from various events within the confines of BOEA and on the Bulk Power System, such as an event that occurred on December 19th, 2008. The Unit #1 Generator tripped offline due to the pick-up of the 59N (Neutral overvoltage relay) which tripped the 86G1 and 86G generator lockout relays. This event was confirmed as accurate through an investigation which showed a short in the generator stator which was then required to be rewound. In this case, and all others, BOEA protective systems responded as designed. Since commissioning, the generator protective relay system at BOEA is comprised of smart sensing devices that poll points for failure at intervals of less than one second. This internal function is capable of monitoring and reporting any malfunctions of the generator protective system to the DCS, which ensures that the operators are aware at all times that the generator protective relay system is operating normally.***

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*BOEA has calibrated and tested the Protection System devices associated with its transformer protective system. These calibrations were performed on a three year cycle beginning in 1998. These include full functional checks of the relays and ensuring they trip in within their designed trip time.*

*On November 3, 2009 BOEA began an annual visual inspection program on its voltage and current sensing devices and their associated wiring. It is well known in the industry that visual inspections of devices help to ensure the proper feedback and functionality of these sensing devices.*

## **Section D: Details of Proposed Mitigation Plan**

### **Mitigation Plan Contents**

#### **D.1**

Identify and describe the action plan, including specific tasks and actions that your organization is proposing to undertake, or which it undertook if this Mitigation Plan has been completed, to correct the violation(s) identified above in Section C.1 of this form:

***BOEA has utilized all available resources, including the NAES project management team, the NAES engineering team, and a third party contractor; and has developed a complete list of Protection System devices that affect the reliability of the Bulk Electric System, including protective relays, current and voltage sensing devices, DC control circuitry, and station batteries. During this assessment, BOEA considered whether it owned or operated any communication systems associated with its Protection Systems, and has concluded that it does not.***

***BOEA also has determined what maintenance and testing has occurred with respect to Protection Systems that it has owned since commissioning of Blackhawk Station in September 1998.***

***BOEA has engaged a contractor to provide a maintenance and testing schedule that will comply with the maintenance and testing intervals and procedures that BOEA is developing with respect to PRC-005-1, R1, which is the subject of a separate mitigation plan. BOEA will ensure that the contractor provides maintenance and testing reports using the same nomenclature to identify BOEA's Protection Systems as contained in BOEA's Protection System Maintenance and Testing Program.***

***BOEA will schedule maintenance and testing for each Protection System device that it owns to occur no later than June 30, 2011.***

***BOEA has documented when subsequent maintenance and testing dates for its Protection Systems in its Protection System Maintenance and Testing Program. This documentation is set forth in RCP-NERC-Attachment 17, which will be filed in BOEA's Reliability Compliance Folder.***

### **Mitigation Plan Timeline and Milestones**

#### **D.2**

Provide the timetable for completion of the Mitigation Plan, including the completion date by which the Mitigation Plan will be fully implemented and the violations associated with this Mitigation Plan are corrected: ***Jun 30, 2011***

#### **D.3**

Milestone Activities, with completion dates, that your organization is proposing for this Mitigation Plan:

Milestone Activity	*Proposed Completion Date (Shall not be greater than 3 months apart)	Actual Completion Date
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(\*) Note: Implementation milestones no more than three (3) months apart for Mitigation Plans with expected completion dates more than three (3) months from the date of submission. Additional violations could be determined for not completing work associated with accepted milestones.

**Additional Relevant Information (Optional)**

**D.4**

If you have any relevant additional information that you wish to include regarding the mitigation plan, milestones, milestones dates and completion date proposed above you may include it here:

## **Section E: Interim and Future Reliability Risk**

### **Abatement of Interim BPS Reliability Risk**

#### **E.1**

While your organization is implementing the Mitigation Plan proposed in Section D of this form, the reliability of the Bulk Power System may remain at higher risk or be otherwise negatively impacted until the plan is successfully completed. To the extent they are, or may be, known or anticipated: (i) identify any such risks or impacts; and (ii) discuss any actions that your organization is planning to take or is proposing as part of the Mitigation Plan to mitigate any increased risk to the reliability of the bulk power system while the Mitigation Plan is being implemented:

***There might be a continued increased risk to the reliability of the Bulk Power System during the implementation of this mitigation plan due to the lack of maintenance and testing of some of BOEA's Protection Systems. Any such risk or negative impact will be mitigated once BOEA completes maintenance and testing of all Protection System devices that affect the reliability of the Bulk Electric System. Moreover, during the implementation of this mitigation plan, the following should serve to further reduce or mitigate any increased risk to or negative impact on the reliability of the Bulk Electric System:***

***The protective relay system at BOEA is comprised of smart sensing devices that polls points for failure at intervals of less than one second. This internal function is capable of monitoring and reporting any malfunctions of the generator protective system to the DCS, which ensures that the operators are aware at all times that the protective relay system is operating normally. BOEA has calibrated the Protection System devices associated with its transformer protective system. These calibrations were performed on a three year cycle beginning in 1998. These include full functional checks of the relays and ensuring they trip in within their designed trip time.***

***On November 3, 2009 BOEA began an annual visual inspection program on its voltage and current sensing devices and their associated wiring. It is well known in the industry that visual inspection devices help to ensure the proper feedback and functionality of these sensing devices.***

***BOEA's generation makes up only 0.348% of SPP's generation capability (~230MW vs. a total generation of ~66,175MWs), which limits its overall impact to the Bulk Electric System.***

### **Prevention of Future BPS Reliability Risk**

#### **E.2**

Describe how successful completion of the Mitigation Plan as laid out in Section D of this form will prevent or minimize the probability that your organization incurs further violations of the same or similar reliability standards requirements in the future:

***The successful completion of this mitigation plan will ensure that BOEA has maintained and tested each of its Protection System devices that affect the reliability of the Bulk Electric System, and that maintenance and testing of Protection Systems that affect the reliability of the Bulk Electric System is scheduled in the future. BOEA also will ensure that it has maintenance and testing reports suitable to demonstrate that each Protection System device that affects the reliability of the Bulk Electric System is maintained and tested in accordance with its Protection***

***System Maintenance and Testing Program. These, activities along with BOEA's enhanced understanding of the requirements of PRC-005 R2, will ensure that BOEA remains fully compliant and avoids any risk of future violations.***

**E.3**

Your organization may be taking or planning other action, beyond that listed in the Mitigation Plan, as proposed in Section D.1, to prevent or minimize the probability of incurring further violations of the same or similar standards requirements listed in Section C.1, or of other reliability standards. If so, identify and describe any such action, including milestones and completion dates:

## **Section F: Authorization**

An authorized individual must sign and date the signature page. By doing so, this individual, on behalf of your organization:

- (a) Submits the Mitigation Plan, as laid out in Section D, to the Regional Entity for acceptance and approval by NERC, and
- (b) If applicable, certifies that the Mitigation Plan, as laid out in Section D of this form, was completed (i) as laid out in Section D of this form and (ii) on or before the date provided as the 'Date of Completion of the Mitigation Plan' on this form, and
- (c) Acknowledges:
  - 1. I am **Projects General Manager** of **Borger Energy Associates, LP**.
  - 2. I am qualified to sign this Mitigation Plan on behalf of **Borger Energy Associates, LP**.
  - 3. I have read and understand **Borger Energy Associates, LP's** obligations to comply with Mitigation Plan requirements and ERO remedial action directives as well as ERO documents, including, but not limited to, the NERC Rules of Procedure and the NERC CMEP currently in effect or the NERC CMEP-Province of Manitoba, Schedule B currently in effect, whichever is applicable.
  - 4. I have read and am familiar with the contents of the foregoing Mitigation Plan.
  - 5. **Borger Energy Associates, LP** agrees to be bound by, and comply with, this Mitigation Plan, including the timetable completion date, as accepted by the Regional Entity, NERC, and if required, the applicable governmental authorities in Canada.

**Authorized Individual Signature** \_\_\_\_\_

(Electronic signature was received by the Regional Office via CDMS. For Electronic Signature Policy see CMEP.)

Name: **David Coke**

Title: **Projects General Manager**

Authorized On: **Apr 08, 2010**



## **Attachment f**

### **Blackhawk's Certification of Mitigation Plan Completion for FAC-009-1 R1 dated April : , 2010**



**CONFIDENTIAL NON-PUBLIC INFORMATION**

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## **Certification of a Completed Mitigation Plan**

All Mitigation Plan Completion Certification submittals shall include data or information sufficient for SPP RE to verify completion of the Mitigation Plan. SPP RE may request such additional data or information and conduct follow-up assessments, on-site or other Spot Checking, or Compliance Audits as it deems necessary to verify that all required actions in the Mitigation Plan have been completed and the Registered Entity is in compliance with the subject Reliability Standard. (CMEP Section 6.6)

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### **Registered Entity Information**

Company Name: Borger Energy Associates, L.P.

Company Address: Spur 119 N. Cogen Place, Borger, TX 79007

NERC Compliance Registry ID (*if known*): NCR01062

**Date Original Mitigation Plan was submitted to SPP RE:** 04/07/2010

**Date Mitigation Plan was completed:** 04/08/2010

**NERC Standard and Requirement(s) covered under the accepted Mitigation Plan:** **FAC-009-1 R1**

**NERC Violation ID # (*if known*):** **SPP200900101**

**Date of Certification:** **04/08/2010**

I certify that the mitigation plan for the above named alleged or confirmed violation has been completed on the date shown above and that all information submitted is complete and correct to the best of my knowledge.

**Name:** **David Coke**

**Title:** **Projects General Manager**

**Email:** **dcoke@ppmsllc.com**

**Phone:** **817-616-1016**

**Authorized Individual Signature**

**Date Signed:** **4/8/2010**

A handwritten signature in blue ink, appearing to read 'David Coke', written over a horizontal line.

Please submit to: [SPP\\_Regional\\_Entity\\_File\\_Clerk@spp.org](mailto:SPP_Regional_Entity_File_Clerk@spp.org)

## **Attachment g**

# **Blackhawk's Certification of Mitigation Plan Completion for PRC-005-1 R1 dated April 29, 2010**



**CONFIDENTIAL NON-PUBLIC INFORMATION**

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## Certification of a Completed Mitigation Plan

All Mitigation Plan Completion Certification submittals shall include data or information sufficient for SPP RE to verify completion of the Mitigation Plan. SPP RE may request such additional data or information and conduct follow-up assessments, on-site or other Spot Checking, or Compliance Audits as it deems necessary to verify that all required actions in the Mitigation Plan have been completed and the Registered Entity is in compliance with the subject Reliability Standard. (CMEP Section 6.6)

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### Registered Entity Information

Company Name: Borger Energy Associates, L.P.

Company Address: Spur 119 N. Cogen Place, Borger, TX 79007

NERC Compliance Registry ID (*if known*): NCR01062

**Date Original Mitigation Plan was submitted to SPP RE:** 04/07/2010

**Date Mitigation Plan was completed:** 04/29/2010

**NERC Standard and Requirement(s) covered under the accepted Mitigation Plan:** **PRC-005-1 R1**

**NERC Violation ID # (*if known*):** SPP200900102

**Date of Certification:** 04/29/2010

I certify that the mitigation plan for the above named alleged or confirmed violation has been completed on the date shown above and that all information submitted is complete and correct to the best of my knowledge.

**Name:** David Coke

**Title:** Projects General Manager

**Email:** [dcoke@ppmsllc.com](mailto:dcoke@ppmsllc.com)

**Phone:** 817-616-1016

**Authorized Individual Signature**

**Date Signed:** 4/29/2010

A handwritten signature in black ink, appearing to read 'David Coke', written over a horizontal line.

Please submit to: [SPP\\_Regional\\_Entity\\_File\\_Clerk@spp.org](mailto:SPP_Regional_Entity_File_Clerk@spp.org)

## **Attachment h**

# **Blackhawk's Certification of Mitigation Plan Completion for PRC-005-1 R2 dated November 22, 2010**



**CONFIDENTIAL NON-PUBLIC INFORMATION**

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## Certification of a Completed Mitigation Plan

All Mitigation Plan Completion Certification submittals shall include data or information sufficient for SPP RE to verify completion of the Mitigation Plan. SPP RE may request such additional data or information and conduct follow-up assessments, on-site or other Spot Checking, or Compliance Audits as it deems necessary to verify that all required actions in the Mitigation Plan have been completed and the Registered Entity is in compliance with the subject Reliability Standard. (CMEP Section 6.6)

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### Registered Entity Information

Company Name: Borger Energy Associates, L.P.

Company Address: Spur 119 N. Cogen Place, Borger, TX 79007

NERC Compliance Registry ID: **NCR** NCR01062

**Date Original Mitigation Plan was submitted to SPP RE:** 4/08/2010

**Date Mitigation Plan was completed:** 10/17/2010

List below the NERC Standard and Requirement covered under the accepted Mitigation Plan

**Standard and Requirement Number:** PRC-005-1 R2

**NERC Violation Number:** SPP200900103

**Date of Certification:** 11/22/2010

I certify that the mitigation plan for the above named alleged or confirmed violation has been completed on the date shown above and that all information submitted is complete and correct to the best of my knowledge.

**Name:** Malcolm Carroll

**Title:** Asset Manager

**Email:** mcarroll@camstex.com

**Phone:** 713-358-9732

**Authorized Signature:**



**Date Signed:** 11/22/2010

The completed and signed Certification of a Completed Mitigation Plan should be submitted to the SPP RE via the CDMS Mitigation Plan Entity Document function. Once submitted, please notify the SPP RE by emailing the [spprefileclerk@spp.org](mailto:spprefileclerk@spp.org).

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## **Attachment i**

### **SPP RE's Verification of Mitigation Plan Completion for FAC-009-1 R1 dated May 19, 2010**



**CONFIDENTIAL NON-PUBLIC INFORMATION**

Ms. Tasha Ward  
Compliance Specialist II  
[tward@spp.org](mailto:tward@spp.org)

Southwest Power Pool Regional Entity  
415 N. McKinley, Ste 140  
Little Rock, AR 72205-3020  
P 501.688.1738  
F 501.821.8726

May 19, 2010

**VIA E-MAIL ONLY**

Mr. David Coke  
Plant Manager  
Borger Energy Associates, LP  
Spur 119 N. Cogen Place  
Borger, TX 79007  
[dcoke@ppmsllc.com](mailto:dcoke@ppmsllc.com)

**Re: MITIGATION PLAN COMPLETION NOTICE**

**Borger Energy Associates, LP: NCR01062**

NERC Violation Identification Number: **SPP200900100**  
NERC Standard: **FAC-008-1 R1**  
SPP RE Violation Identification Number: **2009-030**  
Mitigation Plan Number: **MIT-07-2458**

NERC Violation Identification Number: **SPP200900101**  
NERC Standard: **FAC-009-1 R1**  
SPP RE Violation Identification Number: **2009-031**  
Mitigation Plan Number: **MIT-07-2459**

Dear Mr. Coke:

On April 7, 2010, the Southwest Power Pool Regional Entity (SPP RE) received Borger Energy Associates' (Blackhawk) Certification of Mitigation Plan Completion for the subject mitigation plans. The SPP RE has completed its review of the evidence in support of completion of the mitigation plans. SPP RE finds Blackhawk has successfully completed the above referenced mitigation plans on February 23, 2010, and March 11, 2010, respectively.

If you have any questions you may contact me at 501.688.1738 or [tward@spp.org](mailto:tward@spp.org).



Mitigation Plan Completion Notice

Borger Energy Associates, LP

May 19, 2010

Page 2

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Cordially,

*Tasha Ward*

Tasha Ward

TW/ms

cc: *(via e-mail only)*

Blackhawk

Steve Nelson

SPP RE

Stacy Dochoda

Enforcement

## **Attachment j**

### **SPP RE's Verification of Mitigation Plan Completion for PRC-005-1 R1 dated June 4, 2010**



**CONFIDENTIAL NON-PUBLIC INFORMATION**

Ms. Tasha Ward  
Compliance Specialist II  
[tward@spp.org](mailto:tward@spp.org)

Southwest Power Pool Regional Entity  
415 N. McKinley, Ste 140  
Little Rock, AR 72205-3020  
P 501.688.1738  
F 501.821.8726

June 4, 2010

**VIA E-MAIL ONLY**

Mr. David Coke  
Power Plant Management Services  
Borger Energy Associates, LP  
7001 Blvd 26, Suite 310  
North Richland Hills, TX 76180  
[dcoke@ppmsllc.com](mailto:dcoke@ppmsllc.com)

**Re: MITIGATION PLAN COMPLETION NOTICE**

**Borger Energy Associates, LP: NCR01062**

NERC Violation Identification Number: **SPP200900102**

NERC Standard: **PRC-005-1 R2**

Mitigation Plan Number: **MIT-09-2460**

Dear Mr. Coke:

On April 29, 2010, the Southwest Power Pool Regional Entity (SPP RE) received Borger Energy Associates (Blackhawk) Certification of Mitigation Plan Completion for the subject mitigation plan. The SPP RE has completed its review of the evidence in support of completion of the mitigation plan. SPP RE finds Blackhawk has successfully completed the above referenced mitigation plan on April 29, 2010.

If you have any questions you may contact me at the contact information shown above.

Very Respectfully,

*Tasha Ward*  
Tasha Ward

TW/ms

Mitigation Plan Completion Notice

Borger Energy Associates, LP

June 4, 2010

Page 2

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cc: *(via e-mail only)*

SPP RE

Stacy Dochoda

Enforcement

## **Attachment k**

### **SPP RE's Verification of Mitigation Plan Completion for PRC-005-1 R2 dated F gego dgt '5.'4232**



**CONFIDENTIAL NON-PUBLIC INFORMATION**

Mr. Tyler Morgan  
Compliance Specialist II  
[tmorgan@spp.org](mailto:tmorgan@spp.org)

Southwest Power Pool Regional Entity  
415 N. McKinley, Ste 140  
Little Rock, AR 72205-3020  
P 501.614.3521  
F 501.821.8726

December 3, 2010

**VIA E-MAIL**

Ms. Mona Caesar Johnson, P.E.  
Compliance Manager  
Borger Energy Associates, LP  
P.O. Box 29  
Borger, TX 79008  
[mjohnson@camstex.com](mailto:mjohnson@camstex.com)

**Re: MITIGATION PLAN COMPLETION NOTICE**

**Borger Energy Associates, LP: NCR01062**

NERC Violation Identification Number: **SPP200900103**

NERC Standard: **PRC-005-1 R2 (2.1, 2.2)**

SPP RE Violation Identification Number: **2009-033**

Mitigation Plan Number: **MIT-09-2461**

Dear Ms. Johnson:

On November 22, 2010, the Southwest Power Pool Regional Entity (SPP RE) received Borger Energy Associates, LP's (Blackhawk) Certification of Mitigation Plan Completion for the subject mitigation plans. The SPP RE has completed its review of the evidence in support of completion of the mitigation plans. SPP RE finds Blackhawk has successfully completed the above referenced mitigation plan on October 17, 2010.

If you have any questions you may contact me at the contact information shown above.

Respectfully,

*Tyler Morgan*

Tyler Morgan

TM/cwl

cc:

Mitigation Plan Completion Notice

Borger Energy Associates, LP

December 3, 2010

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Blackhawk

Malcolm Carroll

SPP RE

Stacy Dochoda

Tyler Morgan

**Attachment 1**

**Notice of Filing**



UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Borger Energy Associates, LP

Docket No. NP11-\_\_\_\_-000

NOTICE OF FILING  
January 31, 2011

Take notice that on January 31, 2011, the North American Electric Reliability Corporation (NERC) filed a Notice of Penalty regarding Borger Energy Associates, LP in the Southwest Power Pool Regional Entity region.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, D.C. There is an "eSubscription" link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: [BLANK]

Kimberly D. Bose,  
Secretary