



NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

February 23, 2011

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

Re: NERC Abbreviated Notice of Penalty regarding Burney Forest Products, A Joint Venture, FERC Docket No. NP11-__-000

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Abbreviated Notice of Penalty (NOP) regarding Burney Forest Products, A Joint Venture (BFP),¹ with information and details regarding the nature and resolution of the violation² discussed in detail in the Settlement Agreement (Attachment b) and the Disposition Document (Attachment f), in accordance with the Federal Energy Regulatory Commission's (Commission or FERC) rules, regulations and orders, as well as NERC Rules of Procedure including Appendix 4C (NERC Compliance Monitoring and Enforcement Program (CMEP)).³

This NOP is being filed with the Commission because Western Electricity Coordinating Council (WECC) and BFP have entered into a Settlement Agreement to resolve all outstanding issues arising from WECC's determination and findings of the enforceable violations of PRC-005-1 Requirement (R) 1 and PRC-005-1 R2/2.1. According to the Settlement Agreement, BFP stipulates to the facts of the violations, and has agreed to the assessed penalty of seventeen thousand five hundred dollars (\$17,500), in addition to other remedies and actions to mitigate the instant violations and facilitate future compliance under the terms and conditions of the

¹ Although the Settlement Agreement refers to the entity as Burney Forest Power, the entity is listed as Burney Forest Products, A Joint Venture in the NERC Registry.

² 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.

³ *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).

Settlement Agreement. Accordingly, the violations identified as NERC Violation Tracking Identification Numbers WECC200901756 and WECC200901757 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 May 28, 2010, by and between WECC and BFP. The details of the findings and the basis for the penalty are set forth in the Disposition Document. This NOP filing contains the basis for approval of the Settlement Agreement by the NERC Board of Trustees Compliance Committee (NERC BOTCC). In accordance with Section 39.7 of the Commission’s regulations, 18 C.F.R. § 39.7, NERC provides the following summary table identifying each violation of a Reliability Standard resolved by the Settlement Agreement, as discussed in greater detail below.

NOC ID	NERC Violation ID	Reliability Std.	Req. (R)	VRF	Duration	Total Penalty (\$)
NOC-574	WECC200901756	PRC-005-1	1	High ⁴	6/18/07-12/8/09	17,500
	WECC200901757	PRC-005-1	2/2.1	High ⁵	6/18/07-12/8/09	

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

PRC-005-1 R1 - OVERVIEW

On September 28, 2009, BFP self-reported a violation of PRC-005-1 R1.⁶ WECC determined that BFP, as a Generator Owner (GO), did not have a Transmission Maintenance Inspection Plan (TMIP) for 77 of its 137 Protection System⁷ that included a maintenance and testing program for all of BFP's current transformers (CTs), potential transformers (PTs), and station batteries, and this equipment was not tracked in its computerized maintenance management system (CMMS).

⁴ When NERC filed Violation Risk Factor s (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.

⁵ 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, WECC determined that the violation related to R2.1 and therefore a “High” VRF is appropriate.

⁶ As discussed in the Disposition Document, BFP initially self-reported the violation on March 3, 2009. The March 3, 2009 version of the Self-Report was incorrectly attributed to an affiliated entity; on September 28, 2009, BFP submitted a corrected Self-Report to WECC.

⁷ *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.”

PRC-005-1 R2/2.1 - OVERVIEW

On September 28, 2009, BFP self-reported a violation of PRC-005-1 R2.⁸ WECC determined that BFP, as a GO, could not provide evidence that BFP's CTs, PTs and station batteries were maintained and tested within the defined intervals.

Statement Describing the Assessed Penalty, Sanction or Enforcement Action Imposed⁹

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,¹⁰ the NERC BOTCC reviewed the Settlement Agreement and supporting documentation on December 10, 2010. The NERC BOTCC approved the Settlement Agreement, including WECC's assessment of a seventeen thousand five hundred dollar (\$17,500) financial penalty against BFP 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.

In reaching this determination, the NERC BOTCC considered the following factors:¹¹

1. the violations constituted BFP's first occurrence of violation for the subject NERC Reliability Standards;¹²
2. BFP self-reported the violations;
3. WECC reported that BFP was cooperative throughout the compliance enforcement process;
4. there was no evidence of any attempt to conceal a violation nor evidence of intent to do so;
5. WECC determined that the violations posed a minimal risk and did not pose a serious or substantial risk to the reliability of the bulk power system (BPS), as discussed in the Disposition Document; and
6. WECC reported that there were no other mitigating or aggravating factors or extenuating circumstances that would affect the assessed penalty.

For the foregoing reasons, the NERC BOTCC approves the Settlement Agreement and believes that the assessed penalty of seventeen thousand five hundred dollars (\$17,500) is appropriate for

⁸ See n.6 *supra*.

⁹ See 18 C.F.R. § 39.7(d)(4).

¹⁰ *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).

¹¹ BFP did not receive credit for having a compliance program because it was not reviewed by WECC.

¹² BFP's other violations, which are not viewed as the same or similar to the instant violations, are listed in the Disposition Document.

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.

Attachments to be included as Part of this Notice of Penalty

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

- a) BFP's Self-Report for PRC-005-1 R1 and R2/2.1 dated September 28, 2009, included as Attachment a;
- b) Settlement Agreement by and between WECC and BFP executed May 28, 2010, included as Attachment b;
- c) BFP's Mitigation Plan MIT-07-2197 for PRC-005-1 R1 and R2/2.1 submitted September 28, 2009, included as Attachment c;
- d) BFP's Certification of Mitigation Plan Completion for PRC-005-1 R1 and R2/2.1 dated December 16, 2009, included as Attachment d;
- e) WECC's Verification of Mitigation Plan Completion for PRC-005-1 R1 and R2/2.1 dated December 31, 2009, included as Attachment e; and
- f) Disposition Document, included as Attachment f.

A Form of Notice Suitable for Publication¹³

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

¹³ See 18 C.F.R. § 39.7(d)(6).

Notices and Communications

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

<p>Gerald W. Cauley President and Chief Executive Officer David N. Cook* Vice President and General Counsel North American Electric Reliability Corporation 116-390 Village Boulevard Princeton, NJ 08540-5721 (609) 452-8060 (609) 452-9550 – facsimile david.cook@nerc.net</p> <p>Mark Maher* Chief Executive Officer Western Electricity Coordinating Council 155 North 400 West, Suite 200 Salt Lake City, UT 84103 360-213-2673 (801) 582-3918 – facsimile mmaher@wecc.biz</p> <p>Constance White* Vice President of Compliance Western Electricity Coordinating Council 155 North 400 West, Suite 200 Salt Lake City, UT 84103 (801) 883-6885 (801) 883-6894 – facsimile CWhite@wecc.biz</p> <p>Sandy Mooy* Senior Legal Counsel Western Electricity Coordinating Council 155 North 400 West, Suite 200 Salt Lake City, UT 84103 (801) 819-7658 (801) 883-6894 – facsimile SMooy@wecc.biz</p>	<p>Rebecca J. Michael* 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>Christopher Luras* Manager of Compliance Enforcement Western Electricity Coordinating Council 155 North 400 West, Suite 200 Salt Lake City, UT 84103 (801) 883-6887 (801) 883-6894 – facsimile CLuras@wecc.biz</p> <p>Alycia Goody* Assistant General Counsel Burney Forest Products, A Joint Venture Three Charles River Place 63 Kendrick Street Needham, MA 02494 (781) 292-7014 agoody@eif.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>
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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
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David N. Cook
Sr. Vice President and General Counsel
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cc: Burney Forest Products, A Joint Venture
Western Electricity Coordinating Council

Attachments

Attachment a

BFP's Self-Report for PRC-005-1 R1 and R2/2.1 dated September 28, 2009



Self-Reporting Form

Date Submitted by Registered Entity: 9/28/2009

NERC Registry ID: NCRO5039

Joint Registration Organization (JRO) ID: None

Registered Entity: Burney Forest Power - A Joint Venture

Registered Entity Contact: Benjamin Privett

Function(s) Applicable to Self-Report:

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

Standard: PRC-005-1

Requirement: R.1 & R.2

Has this violation previously been reported or discovered: Yes No

If Yes selected: Provide NERC Violation ID (if known):

Date violation occurred: 6/18/2007

Date violation discovered: 2/27/2009

Is the violation still occurring? Yes No

Detailed explanation and cause of violation:

Based on the NERC interpretation which came available in 2009, Burney Forest Power (BFP) has identified some areas that require improvement in the development-implementation of a conforming industry standard maintenance plan and maintenance testing interval adherences for our Current Transformers (CT's), Potential Transformers (PT's), & Station Batteries. These pieces of equipment were not included in BFP's original PRC-005 maintenance plan nor tracked in CMMS program.

Referenced Document:

- Attachment 17 (BFP's PRC-005 maintenance plan)

Potential Impact to the Bulk Power System (minimal, moderate, or severe): minimal

Detailed explanation of Potential Impact:



Western Electricity Coordinating Council

BATTERIES - The battery systems are in operation and functioning properly. A full test and inspection was done on 3/30/2009. Contractor support has been retained and will further occur as per BFP's maintenance plan set intervals

CT/PT'S - Exceeding testing intervals for current and potential transformers by virtue of being robust simple electrical devices with no moving parts has minimal risk on the reliability of the bulk electric system.

In order to demonstrate BFP's desire to maintain compliance and ultimately reliability of the bulk electrical system, we have implemented scheduled tasks and performed initial visual oil and physical integrity PM checks on each safely accessible CT/PT pertaining to our protection system. Furthermore, BFP is obtaining contractual support to conduct full testing on each defined and required CT/PT's in our coming scheduled November 2009 outage period. This is the next scheduled outage.

Additional Comments:

NOTE: While submittal of a mitigation plan is not required until after a determination of a violation is confirmed, early submittal of a mitigation plan to address and remedy an identified deficiency is encouraged. Submittal of a mitigation plan shall not be deemed an admission of a violation. (See NERC Rules of Procedure, Appendix 4C, Section 6.4.)

Attachment b

Settlement Agreement by and between WECC and BFP executed May 28, 2010

SETTLEMENT AGREEMENT
OF
WESTERN ELECTRICITY COORDINATING COUNCIL
AND
BURNEY FOREST POWER

Western Electricity Coordinating Council ("WECC") and Burney Forest Power ("BFP") (collectively the "Parties") hereby enter into this Settlement Agreement ("Agreement") on this 25 day of May, 2010.

RECITALS

A. The Parties desire to enter into this Agreement to resolve all outstanding issues between them arising from a non-public, preliminary assessment of BFP by WECC that resulted in certain WECC determinations and findings regarding two alleged BFP violations of the following North American Electric Reliability Corporation ("NERC") Reliability Standards ("Reliability Standards" or "Standards"):

WECC200901756: PRC-005-1 R1 Transmission and Generation Protection System Maintenance and Testing

WECC200901757: PRC-005-1 R2 Transmission and Generation Protection System Maintenance and Testing

B. BFP is a general partnership organized under the laws of California. BFP's principal offices are located in Mill Valley, California. BFP is a net 31 MW Independent Power Producer which sells 100% of the facility output to Pacific Gas and Electric under a SO4 contract. BFP's primary fuel source is wood chips from forest derived fuel and wastes from the adjacent sawmill. BFP was registered on the NERC Compliance Registry on June 17, 2007, as a Generator Owner.

C. WECC was formed on April 18, 2002 by the merger of the Western Systems Coordinating Council, Southwest Regional Transmission Association, and Western Regional Transmission Association. WECC is one of eight Regional Entities in the United States responsible for coordinating and promoting electric system reliability and enforcing the mandatory Reliability Standards created by NERC under the authority granted in Section 215 of the Federal Power Act. In addition, WECC supports efficient competitive power markets, assures open and non-discriminatory transmission access among members, provides a forum for resolving transmission access disputes, and provides an environment for coordinating the operating and planning activities of its members. WECC's region encompasses a vast area of nearly 1.8 million square miles extending from Canada to Mexico and including 14 western states. It is the largest and most diverse of the eight Regional Entities in the United States.

D. The Parties are entering into this Agreement to settle the disputed matters between them. It is in the Parties' and the public's best interests to resolve this matter efficiently without the delay and burden associated with a contested proceeding. Nothing contained in this Agreement shall be construed as a waiver of either party's rights. Except, however, nothing in this Agreement shall limit or prevent WECC from evaluating BFP for subsequent violations of the same Reliability Standards addressed herein and taking enforcement action, if necessary. Such enforcement action can include assessing penalties against BFP for subsequent violations of the Reliability Standards addressed herein in accordance with NERC Rules of Procedure.

NOW, THEREFORE, in consideration of the terms set forth herein WECC and BFP hereby agree and stipulate to the following:

I. Stipulated Violation Facts

A. NERC Reliability Standard PRC-005-1 Requirement 1

PRC-005-1 R. 1: *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.*

BFP is subject to this Standard because it was registered on the NERC Compliance Registry on June 17, 2007, as a Generator Owner. On March 3, 2009, BFP submitted a Self-Report through WECC's web portal for an alleged violation of PRC-005-1 R1. However, the alleged violation was incorrectly attributed to an affiliated entity. Therefore, on August 5, 2009, WECC submitted a Notice of Alleged Violation and Proposed Penalty or Sanction to that entity in error. On September 4, 2009, recognizing this mistake, WECC issued a Retraction of Notice of Alleged Violation and Proposed Penalty or Sanction, and dismissed the associated alleged violation. Following discussions between WECC and BFP, on September 28, 2009, BFP submitted a more detailed Self-Report and mitigation plan for a possible violation of PRC-005-1 R1, the same violation reported in its March 3, 2009 Self-Report. According to the Self-Report, on February 27, 2009, BFP identified some areas that require improvement in its Protection System maintenance and testing program. BFP's plan did not include current transformers (CTs), potential transformers (PTs), and station batteries, and this equipment was not tracked in its computerized maintenance management system (CMMS).

On December 8, 2009, a WECC subject matter expert (SME) reviewed the Self-Report, the mitigation plan, and a one-line diagram of BFP's system. The SME also conducted a follow-up interview with a BFP employee, and determined that although

BFP has a Transmission Maintenance Inspection Plan (TMIP) currently in place, the plan did not include 77 of BFP's 137 total protective devices; five CTs, three PTs, and 69 station batteries; resulting in a possible violation of PRC-005-1 R1. The SME forwarded the Self-Report and its findings to the WECC Enforcement Department ("Enforcement").

Enforcement reviewed BFP's Self-Report, the mitigation plan and the SME's findings and confirmed that BFP's TMIP did not include a maintenance and testing program for all of BFP's CTs, PTs and station batteries. Therefore, Enforcement concluded BFP had an Alleged Violation of PRC-005-1 R1.

On September 28, 2009, BFP submitted a mitigation plan with an expected completion date of December 16, 2009. In its mitigation plan, BFP proposed the following actions and milestones to mitigate the alleged violation: (1) acquire contractual support for testing and maintenance of BFP's CTs and PTs by November 30, 2009; (2) refine its current PRC-005-1 maintenance plan to include CTs, PTs and station batteries testing intervals and basis by December 15, 2009; and (3) complete the mitigation plan by December 16, 2009. On December 9, 2009, a WECC SME reviewed BFP's mitigation plan and determined that the mitigation plan adequately identified the cause of noncompliance, set forth the necessary steps to mitigate the violation of R1, and included a reasonable timeframe for BFP to complete the identified steps.

On December 16, 2009, BFP submitted a Certification of Mitigation Plan Completion Form and associated documentation, with an actual completion date of December 8, 2009. On December 22, 2009, a WECC SME reviewed the documents that included (1) *Burney Forest Power Modified PRC-005-1 Maintenance & Testing Plan*; (2) *CT & PT Full Testing Report*; and (3) *Battery-monthly & quarterly-Testing Reports*. WECC accepted the mitigation plan and completed mitigation plan. On December 31, 2009, WECC notified BFP of this acceptance, stating, "WECC has accepted the Certification of Completion for Requirement 1 of the Reliability Standard PRC-005-1 and has found this requirement to be fully mitigated."

B. NERC Reliability Standard PRC-005-1 Requirement 2

PRC-005-1 R.2: *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:*

R. 2.1: *Evidence Protection System devices were maintained and tested within the defined intervals.*

BFP is subject to this Standard because it was registered on the NERC Compliance Registry on June 17, 2007 as a Generator Owner. On September 28, 2009 BFP submitted a Self-Report and mitigation plan for a possible violation of PRC-005-1

R2. According to the Self-Report, on February 27, 2009, BFP identified some areas that require improvement in its Protection System maintenance and testing program. BFP's plan did not include CTs, PTs and station batteries, and this equipment was not tracked in its CMMS.

On December 8, 2009, a WECC SME reviewed the Self-Report, the mitigation plan, and a one-line diagram of BFP's system. The SME also conducted a follow-up interview with a BFP employee, and determined that although BFP has a TMIP currently in place, the plan did not include 77 of BFP's 137 total protective devices; five CTs, three PTs, and 69 station batteries. For these reasons, BFP could not provide evidence these devices were maintained and tested within the defined intervals, resulting in a possible violation of PRC-005-1 R2.1. The SME forwarded the Self-Report and its findings to Enforcement.

Enforcement reviewed BFP's Self-Report, the mitigation plan and the SME's findings and confirmed that BFP's TMIP did not include a maintenance and testing program for all BFP's CTs, PTs and station batteries, and could not provide evidence these Protection System devices were maintained and tested within the defined intervals. Therefore, Enforcement concluded BFP had an Alleged Violation of PRC-005-1 R2.1.

On September 28, 2009, BFP submitted a mitigation plan with an expected completion date of December 16, 2009. In its mitigation plan, BFP proposed the following actions and milestones to mitigate the alleged violation: (1) acquire contractual support to for testing and maintenance of BFP's CTs and PTs by November 30, 2009; (2) refine its current PRC-005-1 maintenance plan to include CTs, PTs and station batteries testing intervals and basis by December 15, 2009; and (3) complete the mitigation plan by December 16, 2009. On December 9, 2009, a WECC SME reviewed BFP's mitigation plan and determined that the mitigation plan adequately identified the cause of noncompliance, set forth the necessary steps to mitigate the violation of R2.1, and included a reasonable timeframe for BFP to complete the identified steps.

On December 16, 2009, BFP submitted a Certification of Mitigation Plan Completion Form and associated documentation, with an actual completion date of December 8, 2009. On December 22, 2009 a WECC SME reviewed the documents that included (1) *Burney Forest Power Modified PRC-005-1 Maintenance & Testing Plan*; (2) *CT & PT Full Testing Report*; and (3) *Battery-monthly & quarterly-Testing Reports*. On December 31, 2009, WECC notified BFP of this acceptance, stating, "WECC has accepted the Certification of Completion for Requirement 2.1 of the Reliability Standard PRC-005-1 and has found this requirement to be fully mitigated."

II. Settlement Terms

A. **Payment.** To settle this matter, BFP hereby agrees to pay \$17,500.00 to WECC via wire transfer or cashier's check. BFP shall make the funds payable to a

WECC account identified in a Notice of Payment Due that WECC will send to BFP upon approval of this Agreement by NERC and the Federal Energy Regulatory Commission ("FERC"). BFP shall issue the payment to WECC no later than thirty days after receipt of the Notice of Payment Due.

The terms of this Agreement, including the agreed upon payment, are subject to review and possible revision by NERC and FERC. Upon NERC approval of the Agreement, NERC will file a Notice of Penalty with FERC. If FERC approves the Agreement, NERC will post the Agreement publicly. If either NERC or FERC rejects the Agreement, then WECC will attempt to negotiate a revised settlement agreement with BFP that includes any changes to the Agreement specified by NERC or FERC. If the Parties cannot reach a settlement agreement, the CMEP governs the enforcement process.

B. Settlement Rationale. WECC's determination of penalties in an enforcement action is guided by the statutory requirement codified at 16 U.S.C. § 824o(e)(6) that any penalty imposed "shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner". Additionally, WECC considers the guidance provided by the NERC Sanction Guidelines and by the FERC in Order No. 693 and in its July 3, 2008 Guidance Order on Reliability Notices of Penalty.

Specifically, to determine penalty assessment, WECC considers the following factors: (1) the seriousness of the violation, including the applicable Violation Risk Factor and Violation Severity Level, and the risk to the reliability of the BPS; (2) the violation's duration; (3) the Registered Entity's compliance history; (4) the Registered Entity's self-reports and voluntary corrective action; (5) the degree and quality of cooperation by the Registered Entity in the audit or investigation process, and in any remedial action; (6) any attempt by the Registered Entity to conceal the violation or any related information; (7) whether the violation was intentional; (8) any other relevant information or extenuating circumstances; and (9) the Registered Entity's ability to pay a penalty.

The following VRFs apply to BFP's Alleged Violations in accordance with NERC's VRF Matrix dated April 9, 2010:

The violations of PRC-005-1 R1 and R2 each have a "High" VRF. WECC determined that these violations posed minimal risk to the reliability of the BPS because BFP had a TMIP in place during the violation period. However, the plan did not include 77 of BFP's 137 total protective devices; 69 of these devices were station batteries. The battery systems associated with the 34 megawatt generator functioned properly and the CT and PT are robust simple electrical devices with no moving parts.

In addition to the factors listed above, WECC considered several factors in reaching an agreement with BFP regarding the penalty amount. First, the Alleged Violations addressed by this Agreement are BFP's first assessed noncompliance with

the applicable Reliability Standards. Second, BFP mitigated all of the violations. Third, BFP was cooperative throughout WECC's evaluation of its compliance with the Reliability Standards and the enforcement process.

In reaching this Agreement, WECC considered that there were no aggravating factors warranting a higher payment amount. Specifically, BFP did not have any negative compliance history. There was no failure by BFP to comply with applicable compliance directives, nor any evidence of an attempt by BFP to conceal a violation. Finally, there was no evidence that BFP's violations were intentional.

III. Additional Terms

A. Authority. The undersigned representative of each party warrants that he or she is authorized to represent and bind the designated party.

B. Representations. The undersigned representative of each party affirms that he or she has read the Agreement, that all matters set forth in the Agreement are true and correct to the best of his or her knowledge, information, or belief, and that he or she understands that the Agreement is entered into by each party in express reliance on the representations set forth herein.

C. Review. Each party agrees that it has had the opportunity to consult with legal counsel regarding the Agreement and to review it carefully. Each party enters the Agreement voluntarily. No presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

D. Entire Agreement. The Agreement represents the entire agreement between the Parties. No tender, offer, or promise of any kind outside the terms of the Agreement by any member, employee, officer, director, agent, or representative of BFP or WECC has been made to induce the signatories or the Parties to enter into the Agreement. No oral representations shall be considered a part of the Agreement.

E. Effective Date. The Agreement shall become effective upon FERC's approval of the Agreement by order or operation of law.

F. Waiver of Right to Further Proceedings. BFP agrees that the Agreement, upon approval by NERC and FERC, is a final settlement of all matters set forth herein. BFP waives its right to further hearings and appeal, unless and only to the extent that BFP contends that any NERC or FERC action concerning the Agreement contains one or more material modifications to the Agreement.

G. Reservation of Rights. WECC reserves all of its rights to initiate enforcement, penalty or sanction actions against BFP in accordance with the Agreement, the CMEP and the NERC Rules of Procedure. In the event that BFP fails to

comply with any of the terms of this Agreement, WECC shall have the right to pursue enforcement, penalty or sanction actions against BFP up to the maximum penalty allowed by the NERC Rules of Procedure. BFP shall retain all of its rights to defend against such enforcement actions in accordance with the CMEP and the NERC Rules of Procedure. Failure by WECC to enforce any provision hereof on occasion shall not constitute a waiver by WECC of its enforcement rights or be binding on WECC on any other occasion.

H. Consent. BFP consents to the use of WECC's determinations, findings, and conclusions set forth in this Agreement for the purpose of assessing the factors, including the factor of determining the company'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; provided, however, that Registered Entity does not consent to the use of the specific acts set forth in this Agreement as the sole basis for any other action or proceeding brought by NERC and/or WECC, nor does BFP consent to the use of this Agreement by any other party in any other action or proceeding.

I. Amendments. Any amendments to the Agreement shall be in writing. No amendment to the Agreement shall be effective unless it is in writing and executed by the Parties.

J. Successors and Assigns. The Agreement shall be binding on successors or assigns of the Parties.

K. Governing Law. The Agreement shall be governed by and construed under the laws of the State of Utah.

L. Captions. The Agreement's titles, headings and captions are for the purpose of convenience only and in no way define, describe or limit the scope or intent of the Agreement.

M. Counterparts and Facsimiles. The Agreement may be executed in counterparts, in which case each of the counterparts shall be deemed to be an original. Also, the Agreement may be executed via facsimile, in which case a facsimile shall be deemed to be an original.

***[Remainder of page intentionally left blank -
signatures affixed to following page]***

Agreed to and accepted:

WESTERN ELECTRICITY COORDINATING COUNCIL

C White
Constance B. White
Vice President of Compliance

5/28/10
Date

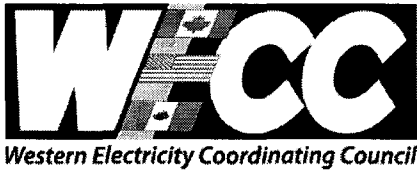
BURNEY FOREST POWER

Noshir Irani
Noshir Irani
Associate & ASSISTANT SECRETARY

05/25/2010
Date

Attachment c

**BFP's Mitigation Plan MIT-07-2197 for PRC-005-
1 R1 and R2/2.1 submitted September 28, 2009**



Mitigation Plan Submittal Form

New or Revised

Date this Mitigation Plan is being submitted: 09/28/2009

If this Mitigation Plan has already been completed:

- Check this box and
- Provide the Date of Completion of the Mitigation Plan:

Section A: Compliance Notices & Mitigation Plan Requirements

A.1 Notices and requirements applicable to Mitigation Plans and this Submittal Form are set forth in "Appendix A - Compliance Notices & Mitigation Plan Requirements" to this form. **Review Appendix A and check this box to indicate that you have reviewed and understand the information provided therein.** This Submittal Form and the Mitigation Plan submitted herein are incomplete and cannot be accepted unless the box is checked.

Section B: Registered Entity Information

B.1 Identify your organization:

Registered Entity Name: Burney Forest Power - A Joint Venture
Registered Entity Address: 35586-B Highway 299 East
NERC Compliance Registry ID: NCR05039

B.2 Identify the individual in your organization who will be the Entity Contact regarding this Mitigation Plan. Please see Section 6.2 of the WECC Compliance Monitoring and Enforcement Program (CMEP) for a description of the qualifications required of the Entity Contact.¹

Name: Benjamin N. Privett
Title: Operations Supervisor
Email: bprivett@burneyforestpower.com
Phone: (530)-335-5023 x3

¹ A copy of the WECC CMEP is posted on WECC's website at:
<http://compliance.wecc.biz/Application/Documents/Home/20090101%20-%20CMEP.pdf>.
Registered Entities are responsible for following all applicable WECC CMEP procedures. WECC strongly recommends that registered entities become familiar with the WECC CMEP and its requirements, as they may be amended from time to time.



Section C: Identity of Alleged or Confirmed Reliability Standard Violations Associated with this Mitigation Plan

This Mitigation Plan is associated with the alleged or confirmed violation(s) of the reliability standard/requirements listed below:

C.1 Standard: PRC-005-1
[Identify by Standard Acronym (e.g. FAC-001-1)]

C.2 Requirement(s) violated and violation dates:
[Enter information in the following Table]

NERC Violation ID # [if known]	WECC Violation ID # [if known]	Requirement Violated (e.g. R3)	Violation Risk Factor	Alleged or confirmed Violation Date ^(*) (MM/DD/YY)	Method of Detection (e.g. audit, self-report, investigation)
		R1	High	2/27/2009	Self Report
		R2	Low	2/27/2009	Self Report

(*) Note: The Alleged or Confirmed Violation Date shall be: (i) the date the violation occurred; (ii) the date that the violation was self-reported; or (iii) the date upon which WECC has deemed the violation to have occurred. Please contact WECC if you have questions regarding which date to use .

C.3 Identify the cause of the alleged or confirmed violation(s) identified above:

Based on the NERC interpretation which came available in 2009, Burney Forest Power (BFP) has identified some areas that require improvement in the development-implementation of a conforming industry standard maintenance plan and maintenance testing interval adherences for our Current Transformers (CT's), Potential Transformers (PT's), & Station Batteries. These pieces of equipment were not included in BFP's original PRC-005 maintenance plan nor tracked in CMMS program.

Referenced Document:
 - Attachment 17 (BFP's PRC-005 maintenance plan)



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[Provide your response here; additional detailed information may be provided as an attachment as necessary]

C.4 **[Optional]** Provide any relevant additional information regarding the alleged or confirmed violations associated with this Mitigation Plan:

This self report and mitigation plan was originally filed on 3/9/2009. When the response was received from WECC dated 8/5/2009, we discovered the self report and mitigation plan had been filed under the GOP site on the WECC portal instead of the GO site on the WECC portal. After review we met with WECC on 8/14/2009 and agreed to make the filing through the GO site on the WECC portal and restart the process.

[Provide your response here; additional detailed information may be provided as an attachment as necessary]

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 violations identified above in Part C.2 of this form:

- 1) Refinement of our current PRC-005 maintenance plan to include CT's, PT's, and Station Batteries testing intervals and basis.
- 2) Include preventative maintenance tasks within the plant CMMS program for the CT, PT, and Batteries.
- 3) Acquire outside contractual support to provide all required checks and maintenance as per PRC-005 maintenance plan details.

[Provide your response here; additional detailed information may be provided as an attachment as necessary]

Check this box and proceed to Section E of this form if this Mitigation Plan, as set forth in Part D.1, has already been completed; otherwise respond to Part D.2, D.3 and, optionally, Part D.4, below.

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



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and the alleged or confirmed violations associated with this Mitigation Plan corrected: Full implementation and mitigation completion: 12/15/2009

D.3 Enter Milestone Activities, with completion dates, that your organization is proposing for this Mitigation Plan:

Milestone Activity	Proposed Completion Date* (milestones cannot be more than 3 months apart)
Contractual support for testing & maintenance of our CT/PT's	11/30/2009
Refinement of the Maint. Plan	12/15/2009
Full mitigation completion	12/16/2009

(*) Note: Implementation milestones should be no more than three (3) months apart for Mitigation Plans with expected completion dates more than three (3) months from the date of submission. As set forth in CMEP section 6.6, adverse consequences could result from failure to complete, on a timely basis, all required actions in this Mitigation Plan, including implementation of milestones. A request for an extension of the completion date of any milestone or of the Mitigation Plan must be received by WECC at least five (5) business days before the relevant milestone or completion date.

[Note: Provide your response here; additional detailed information may be provided as an attachment as necessary]

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:

Going forward; all BFP required testing and inspection requirements will be properly documented in a NERC compliance file and tracked within the plants CMMS program. This will ascertain planning and testing intervals are met as required.

* Develop preventive maintenance tasks for station batteries. Milestone Complete: 3/15/2009

* Contractual support for testing & maintenance of our station batteries. Milestone Complete: 3/30/2009

* Conduct visual inspections of all safely accessible CT/PT's. Milestone Complete: 8/31/2009



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- * Develop preventive maintenance tasks for CT/PT's. Milestone Complete: 8/31/2009
 - * Contractual support for testing & maintenance of our CT/PT's. Milestone/Outage: 11/30/2009
 - * Refinement of our current PRC-005 maintenance plan. Milestone: 12/15/2009
 - * PRC-005 mitigation completion submittal will occur by: 12/16/2009
- [Provide your response here; additional detailed information may be provided as an attachment as necessary]



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Section E: Interim and Future Reliability Risk

Check this box and proceed and respond to Part E.2, below, if this Mitigation Plan, as set forth in Part D.1, has already been completed.

Abatement of Interim BPS Reliability Risk

- E.1 While your organization is implementing the Mitigation Plan proposed in Part 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 known, reasonably suspected 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:

BATTERIES - The battery systems are in operation and functioning properly. A full test and inspection was done on 3/30/2009. Contractor support has been retained and will further occur as per BFP's maintenance plan set intervals.

CT/PT's - Exceeding testing intervals for current and potential transformers by virtue of being robust simple electrical devices with no moving parts has minimal risk on the reliability of the bulk electric system.

In order to demonstrate BFP's desire to maintain compliance and ultimately reliability of the bulk electrical system, we have implemented scheduled tasks and performed initial visual oil and physical integrity PM checks on each safely accessible CT/PT pertaining to our protection system. Furthermore, BFP is obtaining contractual support to conduct full testing on each defined and required CT/PT's in our coming scheduled November 2009 outage period. This is the next scheduled outage.

[Provide your response here; additional detailed information may be provided as an attachment as necessary]

Prevention of Future BPS Reliability Risk

- E.2 Describe how successful completion of the Mitigation Plan as laid out in Part D of this form will prevent or minimize the probability that your organization will incur further violations of the same or similar reliability standards requirements in the future:



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Modifying and improving our maintenance plan, implementing and tracking PM tasks for all Station Batteries and CT/PT systems in accordance with known industry standards and NERC requirements will prevent any future BPS reliability risk.
[Provide your response here; additional detailed information may be provided as an attachment as necessary]

- E.3 Your organization may be taking or planning other action, beyond that listed in the Mitigation Plan, as proposed in Part D.1, to prevent or minimize the probability of incurring further violations of the same or similar standards requirements listed in Part C.2, or of other reliability standards. If so, identify and describe any such action, including milestones and completion dates:

Burney Forest Power makes use of a number of corporate resources for ongoing improvements to its internal NERC Reliability Compliance Program including regular assessments of the compliance program for completeness of addressing reliability standards applying current interpretations, bilateral sharing of lessons learned and application of best practices among related facilities, use of corporate resources for additional support and review activities and improving internal process such as training, compliance team meetings and updates to management tools. We have scheduled an assessment for February 2010.

[Provide your response here; additional detailed information may be provided as an attachment as necessary]



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Section F: Authorization



An authorized individual must sign and date this Mitigation Plan Submittal Form. By doing so, this individual, on behalf of your organization:

- a) Submits the Mitigation Plan, as laid out in Section D of this form, to WECC for acceptance by WECC 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 Mel Murphy of Burney Forest Power - A Joint Venture.
 - 2. I am an officer, employee, attorney or other person authorized to sign this Mitigation Plan on behalf of Burney Forest Power - A Joint Venture.
 - 3. I understand Burney Forest Power - A Joint Venture obligations to comply with Mitigation Plan requirements and WECC or ERO remedial action directives and I have reviewed the WECC and ERO documents related to these obligations, including, but not limited to, the WECC CMEP and the NERC Rules of Procedure.
 - 4. I have read and am familiar with the contents of the foregoing Mitigation Plan.
 - 5. Burney Forest Power - A Joint Venture agrees to be bound by, and comply with, the Mitigation Plan, including the timetable completion date, as approved by WECC and approved by NERC.

Authorized Signature: _____

(Electronic signatures are acceptable, see CMEP Section 3.0)

Name (Print): Mel Murphy
Title: Projects General Manager
Date: 9/28/2009



Western Electricity Coordinating Council

NERC
NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

Section G: Comments and Additional Information

You may use this area to provide comments or any additional relevant information not previously addressed in this form.

[Provide your response here; additional detailed information may be provided as an attachment as necessary]

Section H: WECC Contact and Instructions for Submission

Please direct any questions regarding completion of this form to:

Mike Wells, Sr. Compliance Engineer

Email: mike@wecc.biz

Phone: (801) 883-6884

For guidance on submitting this form, please refer to the "*WECC Compliance Data Submittal Policy*". This policy can be found on the WECC Compliance Website at:

<http://compliance.wecc.biz/Application/Documents/Forms/WECC%20Compliance%20Data%20Submittal%20Policy.pdf>



Western Electricity Coordinating Council



Attachment A – Compliance Notices & Mitigation Plan Requirements

- I. Section 6.2 of the WECC CMEP 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 2.0.
 - (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.
 - (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.
- II. This submittal form may be used to provide a required Mitigation Plan for review and approval by WECC and NERC.
- III. The Mitigation Plan shall be submitted to the WECC and NERC as confidential information in accordance with Section 9.3 of the WECC CMEP and Section 1500 of the NERC Rules of Procedure.



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- IV. 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 violations with respect to each additional Reliability Standard, as applicable.
- V. If the Mitigation Plan is approved by WECC and NERC, a copy of the Mitigation Plan will be provided to the Federal Energy Regulatory Commission in accordance with applicable Commission rules, regulations and orders.
- VI. Either WECC or NERC may reject a Mitigation Plan that it determines to be incomplete or inadequate. If the Mitigation Plan is rejected by either WECC or NERC, the Registered Entity will be notified and required to submit a revised Mitigation Plan.
- VII. In accordance with Section 7.0 of the WECC CMEP, remedial action directives also may be issued as necessary to ensure reliability of the bulk power system.

Attachment d

BFP's Certification of Mitigation Plan Completion for PRC-005-1 R1 and R2/2.1 dated December 16, 2009



Certification of Mitigation Plan Completion Form

Submittal of a Certification of Mitigation Plan Completion shall include data or information sufficient for Western Electricity Coordinating Council (WECC) to verify completion of the Mitigation Plan. WECC may request 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)

Registered Entity: Burney Forest Power – A Joint Venture

NERC Registry ID: NCR05039

Date of Submittal of Certification: 12/16/2009

NERC Violation ID No(s) (if known):

Standard: PRC-005-1

Requirement(s): R1, R2

Date Mitigation Plan was scheduled to be completed per accepted Mitigation Plan: 12/16/2009

Date Mitigation Plan was actually completed: 12/8/2009

Additional Comments (or List of Documents Attached): x1 Attachment-17 (Burney Forest Power modified PRC-005-1 Maintenance & Testing Plan), x3 CT & PT Full Testing Report, x2 Battery—monthly & quarterly—Testing Reports,

I certify that the Mitigation Plan for the above named violation has been completed on the date shown above and that all submitted information is complete and correct to the best of my knowledge.

Name: Mel Murphy

Title: Projects General Manager

Email: mmurphy@ppmsllc.com

Phone: 817-616-1021

Authorized Signature:

Date: 12/16/2009

Attachment e

WECC's Verification of Mitigation Plan Completion for PRC-005-1 R1 and R2/2.1 dated December 31, 2009

CONFIDENTIAL



Western Electricity Coordinating Council

Laura Scholl
Managing Director of Compliance

801-819-7619
lscholl@wecc.biz

VIA COMPLIANCE WEB PORTAL

December 31, 2009

Melvin Murphy
Project General Manager
Burney Forest Products, A Joint Venture
7001 Boulevard 26; Suite 310
North Richland Hills, Texas 76180

NERC Registration ID: NCR05039

Subject: Certification of Completion Response Letter

Dear Melvin,

The Western Electricity Coordinating Council (WECC) received the Certification of Completion and supporting evidence of Burney Forest Products, A Joint Venture (BFP) on 12/16/2009 for the alleged violation of Reliability Standard PRC-005-1 Requirement 1 and 2.1.

WECC has accepted the Certification of Completion for Requirement 1 and 2.1 of the Reliability Standard PRC-005-1 and has found these requirements to be fully mitigated. No further mitigation of these requirements will be required at this time.

If you have any questions or concerns, please contact Phil O'Donnell at podonnell@wecc.biz. Thank you for your assistance in this effort.

Sincerely,

A handwritten signature in black ink, appearing to read 'Laura Scholl', written in a cursive style.

Laura Scholl
Managing Director of Compliance

LS:rh

cc: Fred Barber, BFP General Manager
Lisa Milanese, WECC Manager of Compliance Program Administration
Phil O'Donnell, WECC Senior Compliance Engineer

Attachment f

Disposition Document

DISPOSITION OF VIOLATION¹
Dated December 10, 2010

NERC TRACKING NO.	REGIONAL ENTITY TRACKING NO.	NOC#
WECC200901756	BFP_WECC20091950	NOC-574
WECC200901757	BFP_WECC20091951	

REGISTERED ENTITY	NERC REGISTRY ID
Burney Forest Products, A Joint Venture (BFP)²	NCR05039

REGIONAL ENTITY
Western Electricity Coordinating Council (WECC)

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												
		6/17/07												

* VIOLATION APPLIES TO SHADED FUNCTIONS

DESCRIPTION OF THE REGISTERED ENTITY

BFP is a general partnership organized under the laws of California. BFP's principal offices are located in Mill Valley, California. BFP is a net 31 MW independent power producer which sells 100% of the facility output to Pacific Gas and Electric Company under a Standard Offer 4 (SO4) contract. BFP's primary fuel source is wood chips from forest derived fuel and wastes from the adjacent sawmill.

II. VIOLATION INFORMATION

RELIABILITY STANDARD	REQUIREMENT(S)	SUB-REQUIREMENT(S)	VRF(S)	VSL(S)
PRC-005-1	1		High³	Severe⁴

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

² Although the Settlement Agreement refers to the entity as Burney Forest Power, the entity is listed as Burney Forest Products, A Joint Venture in the NERC Registry.

PRC-005-1	2	2.1	High ⁵	Severe ⁶
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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^[7] affecting the reliability of the Bulk Electric System (BES) are maintained and tested.”

PRC-005-1 R1 and R2 provide:

- R1. 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.**
- R2. 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**

³ 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.

⁴ Although 77 out of 137 Protection System devices (56%) are at issue in this violation, WECC determined the VSL to be “Severe” because all of BFP’s current transformers (CTs), potential transformers (PTs), and station batteries were at issue (100% of each of the three types).

⁵ 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, WECC determined that the violation related to R2.1 and therefore a “High” VRF is appropriate.

⁶ See n.4 *supra*.

⁷ *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.”

Organization^[8] on request (within 30 calendar days). The documentation of the program implementation shall include:

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.

(Footnotes added)

VIOLATION DESCRIPTION

BFP self-reported violations of PRC-005-1 R1 and R2 on September 28, 2009.⁹ According to the Self-Report, on February 27, 2009, BFP identified some areas that required improvement in its Protection System maintenance and testing program. BFP's plan did not include current transformers (CTs), potential transformers (PTs), and station batteries, and therefore, this equipment was not tracked in its computerized maintenance management system (CMMS). Specifically, although BFP had a Transmission Maintenance Inspection Plan (TMIP) in place, the plan did not include 77 of BFP's protective devices; five CTs, three PTs, and 69 station batteries resulting in a violation of PRC-005-1 R1.

In addition, because BFP's TMIP did not include a maintenance and testing program for all of BFP's CTs, PTs and station batteries, BFP could not provide evidence these Protection System devices were maintained and tested within the defined intervals, resulting in a violation of PRC-005-1 R2.1.

RELIABILITY IMPACT STATEMENT- POTENTIAL AND ACTUAL

WECC determined that the violations of PRC-005-1 R1 and R2/2.1 posed a minimal risk and did not pose a serious or substantial risk to the reliability of the bulk power system (BPS) because the after-the-fact inspections showed that the battery systems were in operation and functioning properly and the CTs and PTs are robust simple electrical devices with no moving parts. Additionally, BFP's generator has a peak capacity that is less than 10 MW.

IS THERE A SETTLEMENT AGREEMENT YES NO

⁸ Consistent with applicable FERC precedent, the term "Regional Reliability Organization" in this context refers to WECC.

⁹ BFP initially self-reported the PRC-005-1 R1 violation on March 3, 2009 through WECC's web portal, but the violations were incorrectly attributed to an affiliated entity. On August 5, 2009, WECC submitted a Notice of Alleged Violation and Proposed Penalty or Sanction (NAVAPS) to that affiliated entity in error. After recognizing the mistake, WECC retracted the NAVAPS on September 4, 2009 and dismissed the associated violations for the affiliated entity. BFP then submitted another Self-Report on September 28, 2009 for the PRC-005-1 R1 violation reported in its March 3, 2009 Self-Report and the PRC-005-1 R2, attributing the violations to BFP.

WITH RESPECT TO THE VIOLATION(S), REGISTERED ENTITY

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

WITH RESPECT TO THE ASSESSED PENALTY OR SANCTION, REGISTERED ENTITY

ACCEPTS IT/ DOES NOT CONTEST IT YES

III. DISCOVERY INFORMATION

METHOD OF DISCOVERY

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

DURATION DATE(S) **6/18/07 (when the Standards became mandatory and enforceable) through 12/8/09 (Mitigation Plan completion)**

DATE DISCOVERED BY OR REPORTED TO REGIONAL ENTITY **9/28/09¹⁰**

IS THE VIOLATION STILL OCCURRING YES NO
 IF YES, EXPLAIN

REMEDIAL ACTION DIRECTIVE ISSUED YES NO
 PRE TO POST JUNE 18, 2007 VIOLATION YES NO

IV. MITIGATION INFORMATION

FOR FINAL ACCEPTED MITIGATION PLAN:

MITIGATION PLAN NO. **MIT-07-2197**
 DATE SUBMITTED TO REGIONAL ENTITY **9/28/09**
 DATE ACCEPTED BY REGIONAL ENTITY **12/9/09**
 DATE APPROVED BY NERC **12/28/09**
 DATE PROVIDED TO FERC **12/28/09**

¹⁰ *Id.*

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

N/A

MITIGATION PLAN COMPLETED YES NO

EXPECTED COMPLETION DATE 12/16/09
EXTENSIONS GRANTED N/A
ACTUAL COMPLETION DATE 12/8/09

DATE OF CERTIFICATION LETTER 12/16/09
CERTIFIED COMPLETE BY REGISTERED ENTITY AS OF 12/8/09

DATE OF VERIFICATION LETTER 12/31/09
VERIFIED COMPLETE BY REGIONAL ENTITY AS OF 12/8/09

ACTIONS TAKEN TO MITIGATE THE ISSUE AND PREVENT RECURRENCE

- (1) **BFP's PRC-005-1 Maintenance & Testing Plan was updated to include CTs, PTs and station batteries testing intervals and basis;**
- (2) **preventative maintenance tasks were included within BFP's CMMS program for CTs, PTs and batteries; and**
- (3) **outside contractual support was acquired to provide all required checks and maintenance as per PRC-005-1 Maintenance & Testing Plan .**

Going forward, all BFP required testing and inspection requirements will be properly documented in a NERC compliance file and tracked within BFP's CMMS program in order to ascertain planning and testing intervals are met.

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

- (1) **Burney Forest Power Modified PRC-005-1 Maintenance & Testing Plan;**
- (2) **CT & PT Full Testing Report; and**
- (3) **Battery-monthly & quarterly-Testing Reports**

V. PENALTY INFORMATION

TOTAL ASSESSED PENALTY OR SANCTION OF **\$17,500** FOR **TWO** VIOLATIONS OF RELIABILITY STANDARDS.

(1) REGISTERED ENTITY'S COMPLIANCE HISTORY

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

YES NO

LIST VIOLATIONS AND STATUS

ADDITIONAL COMMENTS

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

YES NO

LIST VIOLATIONS AND STATUS

On October 14, 2009, NERC submitted an Omnibus filing, FERC Docket No. NP10-2-000, which addressed violations for certain registered entities, including two violations of FAC-008-1 R1 and FAC-009-1 R1, for BFP. On November 13, 2009, FERC issued an order stating it would not engage in further review of the violations addressed in the Omnibus Notice of Penalty

ADDITIONAL COMMENTS

WECC determined that the prior violations should not serve as a basis for aggravating the penalty because they involved standards that are not the same or similar to the instant standard. Moreover, 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 UNDETERMINED
EXPLAIN

BFP did not receive credit for having a compliance program because it was not reviewed by WECC.

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.

See above.

(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

EXHIBITS:

SOURCE DOCUMENT

BFP's Self-Report for PRC-005-1 R1 and R2/2.1 dated September 28, 2009

MITIGATION PLAN

BFP's Mitigation Plan MIT-07-2197 for PRC-005-1 R1 and R2/2.1 submitted September 28, 2009

CERTIFICATION BY REGISTERED ENTITY

BFP's Certification of Mitigation Plan Completion for PRC-005-1 R1 and R2/2.1 dated December 16, 2009

VERIFICATION BY REGIONAL ENTITY

WECC's Verification of Mitigation Plan Completion for PRC-005-1 R1 and R2/2.1 dated December 31, 2009

OTHER RELEVANT INFORMATION:

NOTICE OF ALLEGED VIOLATION AND PROPOSED PENALTY OR SANCTION ISSUED

DATE: **2/11/10** OR N/A

SETTLEMENT DISCUSSIONS COMMENCED

DATE: **3/19/10** 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

Attachment g

Notice of Filing

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Burney Forest Products, A Joint Venture

Docket No. NP11-____-000

NOTICE OF FILING
February 23, 2011

Take notice that on February 23, 2011, the North American Electric Reliability Corporation (NERC) filed a Notice of Penalty regarding Burney Forest Products, A Joint Venture in the Western Electricity Coordinating Council 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, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: [BLANK]

Kimberly D. Bose,
Secretary