



NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

July 30, 2010

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

**Re: NERC Abbreviated Notice of Penalty regarding Kiowa Power Partners, LLC
FERC Docket No. NP10-__-000**

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Abbreviated Notice of Penalty (NOP) regarding Kiowa Power Partners, LLC (Kiowa), with information and details regarding the nature and resolution of the violation¹ discussed in detail in the Settlement Agreement (Attachment a) and the Disposition Document (Attachment c), in accordance with the Federal Energy Regulatory Commission's (Commission or FERC) rules, regulations and orders, as well as NERC Rules of Procedure including Appendix 4C (NERC Compliance Monitoring and Enforcement Program (CMEP)).²

On September 15, 2008, Kiowa submitted a periodic data submittal identifying a violation of FAC-003-1 Requirement (R) 2 to Texas Reliability Entity, Inc. (Texas RE)³ for Kiowa's failure to properly execute its transmission vegetation management program (TVMP) resulting in two vegetation related ground faults. This Notice of Penalty is being filed with the Commission because Texas RE and Kiowa have entered into a Settlement Agreement to resolve all outstanding issues arising from a preliminary and non-public assessment resulting in Texas RE's

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

² *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards* (Order No. 672), III FERC Stats. & Regs. ¶ 31,204 (2006); *Notice of New Docket Prefix "NP" for Notices of Penalty Filed by the North American Electric Reliability Corporation*, Docket No. RM05-30-000 (February 7, 2008). See also 18 C.F.R. Part 39 (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).

³ NERC delegated authority to Texas Reliability Entity, Inc. to become the regional entity for the Electric Reliability Council of Texas, Inc. (ERCOT) region effective July 1, 2010, pursuant to Section 215(e)(4) of the Federal Power Act. NERC also delegated to Texas Reliability Entity, Inc. the authority and responsibility for the continuation of all compliance monitoring and enforcement activities that it had previously delegated to Texas Regional Entity (a division of Electric Reliability Council of Texas, Inc.). The term "Texas RE" is used herein to refer to both Texas Regional Entity and Texas Reliability Entity, Inc.

determination and findings of the enforceable violation of FAC-003-1 R2. According to the Settlement Agreement, Kiowa neither admits nor denies the violation, but has agreed to the assessed penalty of twenty-five thousand dollars (\$25,000) in addition to other remedies and actions to mitigate the instant violation and facilitate future compliance under the terms and conditions of the Settlement Agreement. Accordingly, the violation identified as NERC Violation Tracking Identification Numbers TRE200800063 is being filed in accordance with the NERC Rules of Procedure and the CMEP.

Statement of Findings Underlying the Violation

This Notice of Penalty incorporates the findings and justifications set forth in the Settlement Agreement executed on April 12, 2010, by and between Texas RE and Kiowa and the Supplemental Record Information document issued by Texas RE on April 15, 2010. The details of the findings and the basis for the penalty are set forth in the Disposition Document. This Notice of Penalty filing contains the basis for approval of the Settlement Agreement by the NERC Board of Trustees Compliance Committee (NERC BOTCC). In accordance with Section 39.7 of the Commission's regulations, 18 C.F.R. § 39.7, NERC provides the following summary table identifying each violation of a Reliability Standard resolved by the Settlement Agreement, as discussed in greater detail below.

| Region | Registered Entity | NOC ID | NERC Violation ID | Reliability Std. | Req. (R) | VRF | Total Penalty (\$) |
|---------------|---------------------------|---------------|--------------------------|-------------------------|-----------------|------------|---------------------------|
| Texas RE | Kiowa Power Partners, LLC | NOC-534 | TRE200800063 | FAC-003-1 | 2 | High | 25,000 |

The text of the Reliability Standard at issue is set forth in the Disposition Document.

FAC-003-1 R2 - OVERVIEW⁴

Texas RE determined that Kiowa, as a Transmission Owner, failed to properly maintain vegetation clearance according to its TVMP. Although there were two (2) instances of ground faults, these faults were symptomatic of a single instance of an improperly executed TVMP. As such, Texas RE determined that the two ground faults resulted in a single violation.

The specific defects in Kiowa's execution of its TVMP were: (1) The ground clearance of the transmission line span at issue was found to be sagging down to 22 feet, but the clearance was designed to be 26 feet; and (2) one of the transmission poles was installed one hundred feet from its designed location, which contributed to the excess sag.

The duration of the FAC-003-1 R2 violation was from August 1, 2008, when Kiowa experienced the initial vegetation related outage, through September 12, 2008, the date Kiowa completed its Mitigation Plan.

⁴ Further information on this violation is contained in the Disposition Document included as Attachment c to the Settlement Agreement.

Texas RE determined that the violation of FAC-003-1 R2 did not pose a serious or substantial risk to the reliability of the bulk power system (BPS) because a loss of Kiowa's single transmission line would isolate Kiowa's generation plant and an effect on the grid would be the loss of the 1,220 MW provided by Kiowa which would be purchased on the spot market.

Statement Describing the Assessed Penalty, Sanction or Enforcement Action Imposed⁵

Basis for Determination

Taking into consideration the Commission's direction in Order No. 693, the NERC Sanction Guidelines, the Commission's July 3, 2008 and October 26, 2009 Guidance Orders,⁶ the NERC BOTCC reviewed the Settlement Agreement and supporting documentation on June 10, 2010. The NERC BOTCC approved the Settlement Agreement, including Texas RE's assessment of a twenty-five thousand dollar (\$25,000) financial penalty against Kiowa and other actions to facilitate future compliance required under the terms and conditions of the Settlement Agreement. In approving the Settlement Agreement, the NERC BOTCC reviewed the applicable requirements of the Commission-approved Reliability Standards and the underlying facts and circumstances of the violation at issue.

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

1. the violation constituted Kiowa's first occurrence of violation of the subject NERC Reliability Standard;
2. Texas RE reported that Kiowa was cooperative throughout the compliance enforcement process;
3. the quality of the Kiowa compliance program, as discussed in the Disposition Document;
4. there was no evidence of any attempt to conceal a violation nor evidence of intent to do so;
5. the violations did not pose a serious or substantial risk to the BPS, as discussed above and in the Disposition Document;
6. TRE reported that there were no aggravating factors or extenuating circumstances that would affect the assessed penalty; and
7. the other mitigating factors and additional considerations for the assessed penalty, as described in the Disposition Document.

For the foregoing reasons, the NERC BOTCC approves the Settlement Agreement and believes that the assessed penalty of twenty-five thousand dollars (\$25,000) is appropriate for the

⁵ See 18 C.F.R § 39.7(d)(4).

⁶ *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).

violation and circumstances at issue, and is consistent with NERC's goal to promote and ensure reliability of the BPS.

Pursuant to 18 C.F.R. § 39.7(e), the penalty will be effective upon expiration of the 30 day period following the filing of this Notice of Penalty with FERC, or, if FERC decides to review the penalty, upon final determination by FERC.

Attachments to be included as Part of this Notice of Penalty

The attachments to be included as part of this Notice of Penalty is the following documents:

- a) Settlement Agreement by and between Texas RE and Kiowa executed April 12, 2010, included as Attachment a;
 - i. Kiowa's Periodic Data Submittal for FAC-003-1 R2 submitted September 15, 2008, included as Exhibit A to the Settlement Agreement;
 - ii. Kiowa's Mitigation Plan and Certification of Completion therein for FAC-003-1 R2 submitted November 20, 2008, included as Exhibit B to the Settlement Agreement;
- b) Texas RE's Verification of Completion dated October 12, 2009, included as Attachment b;
and
- c) Disposition Document included as Attachment c.

A Form of Notice Suitable for Publication⁷

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

⁷ 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 gerry.cauley@nerc.net david.cook@nerc.net</p> <p>Robert Bell* Plant Engineer Kiowa Power Partners, LLC Mile Marker 69, Hwy 69S PO Box 430 Kiowa, OK 74553 (918) 432-5117 ext. 1009 rbell@tenaska.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 Holly A. Hawkins* Attorney V. Davis Smith* Attorney (admitted in IN; application pending in NJ; not admitted in DC) 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 holly.hawkins@nerc.net davis.smith@nerc.net</p> <p>Susan Vincent* General Counsel Texas Reliability Entity, Inc. 2700 Via Fortuna Suite 225 Austin, TX 78746 (512) 583-4922 susan.vincent@texasre.org</p> <p>Rashida Caraway* Manager, Enforcement Texas Reliability Entity, Inc. 2700 Via Fortuna Suite 225 Austin, TX 78746 (512) 583-4977 rashida.caraway@texasre.org</p> |
|--|--|

Conclusion

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

Respectfully submitted,

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David N. Cook
Vice President and General Counsel
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cc: Kiowa Power Partners, LLC
Texas Reliability Entity, Inc.

Attachments

Attachment a

**Settlement Agreement by and between Texas RE
and Kiowa executed April 12, 2010**

**SETTLEMENT AGREEMENT
OF
TEXAS REGIONAL ENTITY
AND
KIOWA POWER PARTNERS, LLC**

I. Introduction

1. Texas Regional Entity ("Texas RE") and Kiowa Power Partners, LLC ("Kiowa") enter into this Settlement Agreement ("Agreement") to resolve all outstanding issues arising from Texas RE's determination and findings, pursuant to the North American Electric Reliability Corporation ("NERC") Rules of Procedure, of a violation by Kiowa of NERC Reliability Standard FAC-003-1, Requirement 2 (R2) from a Periodic Data Submittal reported on September 15, 2008.

II. Stipulation

2. The facts stipulated herein are stipulated solely for the purpose of resolving between Texas RE and Kiowa the matters discussed herein and do not constitute stipulations or admissions for any other purpose. Texas RE and Kiowa hereby stipulate and agree to the following:

A. Background

3. Kiowa is a Delaware limited liability company qualified to do business in the state of Oklahoma. Kiowa's home office is located in Omaha, Nebraska. Kiowa owns a 1220 MW combined cycle, gas-fired electric generation station located in Pittsburg County, Oklahoma. Electricity generated from Kiowa's facility is tolled under an electricity manufacturing agreement with its sole customer Shell Energy North America for resale.
4. Kiowa was registered on the NERC Compliance Registry for the Transmission Owner function for its facilities on June 28, 2007 and has been continuously registered as such through the date of this Agreement. The ERCOT portion of the Generator Interconnection Facility contains nineteen circuit miles; nine miles of dual circuit and one mile of single circuit. There are no other plants, other than the station located in Pittsburg County, Oklahoma, connected to these circuits.
5. Texas RE received a Periodic Data Submittal from Kiowa on September 15, 2008, regarding two (2) circuit faults reported as part of its Vegetation Management Program. As a registered Transmission Owner, Kiowa was subject to the Requirements of NERC Reliability Standard FAC-003-1, including R2 from June 28, 2007 through the date of the Periodic Data Submittal.
6. Texas RE requested additional information regarding the circumstances of the faults, the discovery process, details of the fault location, and the circuit-loading at the times of both faults.
7. On November 17, 2008, Kiowa submitted additional information regarding the specific characteristics of the faults as requested. Texas RE reviewed the Periodic Data Submittal and the additional information in its analysis.

B. Alleged Violations

8. During the review of the Periodic Data Submittal and additional information, Texas RE determined that Kiowa did not properly execute its Vegetation Management Program, resulting in two (2) instances of ground faults, which in turn, resulted in one (1) alleged violation of the NERC Reliability Standard FAC-003-1, R2.
9. On November 17, 2008, Texas RE sent Kiowa a Preliminary Notice of Alleged Violation ("PNAV") notifying Kiowa that it had allegedly violated NERC Reliability Standard FAC-003-1, R2.
10. FAC-003-1, R2 requires that the Transmission Owner shall create and implement an annual plan for vegetation management work to ensure the reliability of the system. The plan shall describe the methods used, such as manual clearing, mechanical clearing, herbicide treatment, or other actions. The plan should be flexible enough to adjust to changing conditions, taking into consideration anticipated growth of vegetation and all other environmental factors that may have an impact on the reliability of the transmission systems. Adjustments to the plan shall be documented as they occur. The plan should take into consideration the time required to obtain permissions or permits from landowners or regulatory authorities. Each Transmission Owner shall have systems and procedures for documenting and tracking the planned vegetation management work and ensuring that the vegetation management work was completed according to work specifications. This Requirement has a "High" Violation Risk Factor ("VRF").
11. The first of the two (2) ground faults occurred on August 1, 2008. The first fault occurred on the C Phase of a 345 kV Kiowa transmission line located in Northern Texas. At the time, the circuit was loaded at 588 MW. The resulting outage lasted approximately 6 hours and limited plant output to approximately 1,000 MW. After a visual inspection revealed no obvious contacts of vegetation in regard to the circuit at the suspected fault location, the circuit was re-energized. A second fault occurred on August 3, 2008, again on the C Phase of the same circuit. At the time, the circuit was loaded at 593 MW. The resulting outage lasted approximately 1.5 hours and limited plant output to approximately 1,000 MW. The second event occurred at the same location as the prior event which had been investigated for vegetation with no corrective actions identified. Investigation of the suspected location did not reveal any damage. Discussions with the contractor led to a decision to reclose breaker if the alarm cleared normally, which it did. Digital Fault Recording data investigated on August 4, 2008, revealed the Fault Location to be 6.4 miles north of the Kiowa Switching Station in Savoy, TX. The cause of the fault was identified to be a tree located directly under the C Phase of the circuit. The tree was immediately removed.
12. Previously, in April 2008, the subject tree had been estimated to be 13-14 feet tall and was flagged as a priority two (2) work case, to be addressed after all priority one (1) cases. Kiowa's Clearance 2 requirement for this line is 10 feet. At the time of the April 2008 inspection, this span had a clearance greater than 10 feet to vegetation (while loaded to 500 MW per circuit with a ~1200 MW total maximum capability on a 58 F cool day). However, at an on-site investigation, after the aforementioned faults, the span in question was found to be sagging down to 22 feet above the ground, while it was designed for a clearance of 26 feet. At the August 5, 2008 on-site inspection, the line was dispatched to MAX (~1172MW - 586 MW per circuit). The tree was estimated to be 17-18 feet tall at the time of contact. After reviewing the site, Kiowa determined that one of the transmission poles was out of place. The pole location was determined to be incorrect by a design engineer's review of the site against design data. The pole had been built 100 feet too far south, causing it to be

farther away from the adjacent pole than designed, which resulted in the excess sagging. The proper spacing of the poles should have been 862 feet but instead was 962 feet.

13. Texas RE has reviewed the Periodic Data Submittal, and has determined that although there were two (2) instances of ground faults, these faults were symptomatic of a single instance of an improperly executed Vegetation Management Program. As such, these faults will be treated as a single violation of FAC-003-1, R2.
14. During Texas RE's analysis, Kiowa has been cooperative with Texas RE, responding to all of Texas RE's requests for information in a timely manner, and has often met or exceeded expectations. Furthermore, Kiowa has demonstrated an exemplary reliability compliance program.
15. In regard to the violation of FAC-003-1, R2, Texas RE considered the following factors in analyzing an appropriate penalty to assess: (a) Kiowa's cooperation during the discovery process and (b) Kiowa's appropriate culture of compliance, including staffing with a Reliability Compliance Manager.
16. Under these circumstance and given that Kiowa is performing the additional steps to enhance reliability in ERCOT through the actions outlined below, Texas RE has decided to assess Kiowa twenty-five thousand dollars (\$25,000.00) in monetary penalties for the alleged violation.

III. PARTIES' SEPARATE REPRESENTATIONS

C. STATEMENTS OF TEXAS RE AND SUMMARY OF FINDINGS

17. During its review of the September 15, 2008 Periodic Data Submittal from Kiowa and the November 17, 2008 additional information, Texas RE found one (1) violation of NERC Reliability Standard FAC-003-1, R2. The violation was in regard to Kiowa's inability to properly execute their Vegetation Management Program. This alleged violation occurred between August 1, 2008 and August 4, 2008 and was issued NERC Violation #: TRE200800063.
18. Texas RE and Kiowa, with NERC's approval, have entered into an agreed upon Mitigation Plan, which is attached hereto at Exhibit B.
19. Texas RE agrees that this Agreement is in the best interest of the parties and in the best interest of bulk power system reliability.

D. STATEMENTS OF KIOWA

20. Kiowa neither admits nor denies that the facts set forth and agreed to by the parties for purposes of this Agreement constitute a violation of FAC-003-1, R2.
21. Kiowa does not contest the alleged violation FAC-003-1, R2 or proposed penalty for such violation, and Kiowa agreed to submit and implement a Mitigation Plan. Kiowa submitted its formal Mitigation Plan on November 20, 2008 and formally certified that it completed the Mitigation Plan on March 4, 2009.
22. Kiowa neither agrees nor disagrees to the claim of an alleged violation of FAC-003-1, R2 and entered into the Settlement Agreement with Texas RE to resolve the alleged

violation and to avoid extended litigation and potential uncertainty regarding the matters described herein, and to effectuate a complete and final resolution of the issues set forth herein. Kiowa 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

23. Kiowa agreed to and has already completed a Mitigation Plan. As discussed above, on August 4, 2008, Kiowa took action to locate the source and cause of the ground faults, and remedied the problem by removing the tree contacting the circuit. On August 6, 2008, Kiowa performed a more comprehensive investigation into the underlying cause of the faults and determined that the span on which the fault occurred had its southern pole out of place, being located 100 feet too far to the south. This resulted in a span longer than designed, allowing sagging on the circuit in excess of what was contemplated in Kiowa's Vegetation Management Program. On September 12, 2008, Kiowa took a forced outage to install an intermediate transmission pole at the faults' location, which would alleviate the excess sagging.
24. In arriving at the penalty amount, Texas RE considered that Kiowa had acted quickly, taking actions above and beyond merely removing the vegetation by a) immediately mobilizing a contractor to order the necessary materials and plan the installation of the new pole, b) coordinating the installation of the new pole with the affected land owner, and c) working with Kiowa's tolling counterparty to take a nine hour forced outage prior to its Fall scheduled outage in order to install an intermediate pole in the transmission line span. This outage was at additional expense to Kiowa and associated counterparties of between \$150,000 and \$175,000. Texas RE also considered that the installation of this pole eliminated the excess sag condition responsible for the vegetation-related event that would not have occurred but for the excess sag created by the contractor constructing the southern pole of the span in an incorrect location. In addition, Kiowa has agreed to develop and present training at two upcoming Texas RE compliance workshops. One presentation will focus on the Report from the Ad Hoc Group for Generator Requirements at the Transmission Interface ("Report"). The Report, which addresses issues of potential reliability gaps, registration compliance, and standards revisions in connection with Generator Owner and Generator Operator facilities up to the transmission interface, has wide-spread industry implications. The training will provide a forum for Generator Owners and Generator Operators to understand the issues and the process being undertaken by the Ad Hoc Group. Kiowa has also agreed to provide a presentation at an upcoming Texas RE compliance workshop about Kiowa's and Tenaska's (Kiowa's parent company) multi-reliability region compliance program and culture of compliance with the purpose of sharing lessons learned and corporate best practices. Texas RE compliance workshops are attended by Generator Operators, Generator Owners, transmission/distribution service providers, ERCOT ISO and the Public Utility Commission of Texas. Texas RE sponsors and hosts the workshops bi-yearly to allow market participants, within the region, to learn more about compliance.
25. For purposes of settling any and all disputes, Texas RE and Kiowa agree that after the effective date of this Agreement, Kiowa will pay to Texas RE a monetary penalty in the amount of \$25,000.00 for the alleged violations.

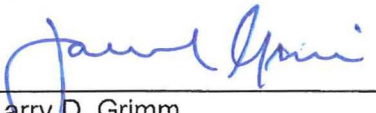
26. Kiowa shall pay to Texas RE the penalty of \$25,000.00 within twenty (20) days after receipt of an invoice from Texas RE to be issued after this Agreement is either approved by NERC and approved by the Federal Energy Regulatory Commission (the Commission) through an Order or by operation of law. Texas RE shall notify NERC if the payment is not timely received.
27. Any failure by Kiowa to make a timely penalty payment or to comply with any of the terms and conditions agreed to herein or any other conditions of this Agreement shall be deemed to be either the same alleged violation that initiated this Settlement and/or additional violation(s) and may subject Kiowa to new or additional enforcement, penalty or sanction actions in accordance with the NERC Rules of Procedure.
28. If Kiowa does not make the monetary penalty payment above by the date agreed by the parties herein, interest payable to Texas RE will begin to accrue, pursuant to the Commission's regulations at 18 C.F.R. § 35.19(a)(2)(iii), from the date that payment is due, in addition to the penalty specified above.

V. ADDITIONAL TERMS

29. Texas RE shall report the terms of all settlements of compliance matters to NERC. NERC will review the settlement for the purpose of evaluating its consistency with other settlements entered into for similar violations or under other, similar circumstances. Based on this review, NERC will either approve the settlement or reject the settlement and notify Texas RE and Kiowa of changes to the settlement that would result in approval. If NERC rejects the settlement, NERC will provide specific written reasons for such rejection and the Texas RE will attempt to negotiate a revised settlement agreement with Kiowa including any changes to the settlement specified by NERC. If a settlement cannot be reached, the enforcement process shall continue to conclusion. If NERC approves the settlement, NERC will (i) report the approved settlement to the Commission for the Commission's review and approval by order or operation of law and (ii) publicly post the alleged violation and the terms provided for in the settlement.
30. This Agreement shall become effective upon NERC approval and the Commission's approval of the Agreement by order or operation of law as submitted to it or as modified in a manner acceptable to the parties.
31. Kiowa agrees that this Agreement, when approved by NERC and the Commission, shall represent a final settlement of all matters set forth herein and Kiowa waives its right to further hearings and appeal, unless and only to the extent that Kiowa contends that any NERC or Commission action on the Agreement contains one or more material modifications to the Agreement. Texas RE reserves all rights to initiate enforcement, penalty or sanction actions against Kiowa in accordance with the NERC Rules of Procedure in the event that Kiowa fails to comply with the mitigation plan and compliance program agreed to in this Agreement. In the event Kiowa fails to comply with any of the stipulations, remedies, sanctions or additional terms, as set forth in this Agreement, Texas RE will initiate enforcement, penalty, or sanction actions against Kiowa to the maximum extent allowed by the NERC Rules of Procedure, up to the maximum statutorily allowed penalty. Kiowa shall retain all rights to defend against such enforcement actions, also according to the NERC Rules of Procedure.

32. Kiowa consents to the use of Texas RE'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 Texas RE ; provided, however, that Kiowa 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 Texas RE, nor does Kiowa consent to the use of this Agreement by any other party in any other action or proceeding.
33. Each of the undersigned warrants that he or she is an authorized representative of the entity designated, is authorized to bind such entity and accepts the Agreement on the entity's behalf.
34. The undersigned representative of each party affirms that he or she has read the Agreement, that all of the matters set forth in the Agreement are true and correct to the best of his or her knowledge, information and belief, and that he or she understands that the Agreement is entered into by such 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 Agreement.
35. The Agreement may be signed in counterparts.
36. This Agreement is executed in duplicate, each of which so executed shall be deemed to be an original.

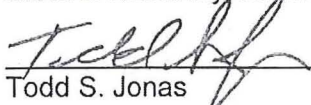
Agreed to and accepted:



Larry D. Grimm
CEO & Chief Compliance Officer
Texas Regional Entity, a division of
Electric Reliability Council of Texas, Inc.

4/12/10

Date



Todd S. Jonas
Vice President, Operations
Tenaska Oklahoma, Inc. Managing Member
Kiowa Power Partners, LLC

4/9/10

Date

Exhibit A

ERCOT 345 kV VEGETATION RELATED OUTAGE REPORT

Report Month and Year: AUG 08

Transmission Operator: ERCOT

Transmission Owner(s) Covered in this Report: Kiowa Power Partners, LLC.

Transmission Owner Contact Information :

Bell, Robert
Name

918 432 5117 x1009
Phone

rbell@tenaska.com
E-mail Address

Requirement: All vegetation-related transmission line trips on 345 kV lines or any other lower voltage lines designated by ERCOT to be critical to the reliability of the electric system will be reported by transmission owners to their respective Transmission Operator. Transmission Operators will forward this form to ERCOT Compliance on a monthly basis by the 20th of the following month.

Reporting

All outages shall be reported where the cause of the outage is the line faulting due to contact with vegetation, except:

- Multiple outages on an individual line, if caused by the same vegetation, shall be reported as one outage regardless of the actual number of outages within a 24-hour period.
- A single trip followed by a successful automatic reclose within a 24-hour period shall not be a reportable outage.
- Vegetation contacts due to natural disasters or storm related [Examples: earthquake, fire, tornados, hurricanes and wind shear (micro-bursts) ice storms, hail storms and floods] are not considered vegetation related.

Categories for Vegetation Contact Outages Reporting

- Category 1 – Vegetation located within transmission right-of-way
- Category 2 – Vegetation located outside of transmission right-of-way (Example: Danger Tree)

| DATE: | TIME: | LINE AFFECTED: | CATEGORY: |
|-----------|-------------|----------------|-----------|
| 01 AUG 08 | 1303 - 1902 | KMCHI_KWASS2 | 1 |
| 03 AUG 08 | 1447 - 1632 | KMCHI_KWASS2 | 1 |

☐ CHECK IF NO VEGETATION RELATED OUTAGES IN THIS MONTH

Exhibit B

Mitigation Plan Submittal Form

Date this Mitigation Plan is being submitted: **20 NOV 08**

If this Mitigation Plan has already been completed:

- Check this box ☒ and
- Provide the Date of Completion of the Mitigation Plan: **12 SEP 08**

Section A: Compliance Notices

- Section 6.2 of the CMEP¹ 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. Additional violations could be determined for not completing work associated with accepted milestones.
 - (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.
- This submittal form may be used to provide a required Mitigation Plan for review and approval by Texas Regional Entity (Texas RE) and NERC.
- The Mitigation Plan shall be submitted to the Texas RE and NERC as confidential information in accordance with Section 1500 of the NERC Rules of Procedure.

¹ "Uniform Compliance Monitoring and Enforcement Program 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.

- This Mitigation Plan form may be used to address one or more related violations of one Reliability Standard. A separate mitigation plan is required to address violations with respect to each additional Reliability Standard, as applicable.
- If the Mitigation Plan is approved by Texas RE and NERC, a copy of this Mitigation Plan will be provided to the Federal Energy Regulatory Commission in accordance with applicable Commission rules, regulations and orders.
- Texas RE 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.

Section B: Registered Entity Information

B.1 Identify your organization:

| | |
|---|-----------------------------|
| Company Name: | Kiowa Power Partners, LLC |
| Company Address: | PO Box 430, Kiowa, OK 74553 |
| NERC Compliance Registry ID <i>[if known]</i> : | NCR 04088 |

B.2 Identify the individual in your organization who will serve as the Contact to Texas RE regarding this Mitigation Plan. This person shall be technically knowledgeable regarding this Mitigation Plan and authorized to respond to Texas RE regarding this Mitigation Plan.

| | |
|--------|--------------------|
| Name: | Robert Bell |
| Title: | Plant Engineer |
| Email: | rbell@tenaska.com |
| Phone: | 918 432 5117 x1009 |

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

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

C.1 Standard: **FAC-003-1**
[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] | Texas RE Violation ID # [if known] | Requirement Violated (e.g. R3.2) | Violation Date ^(*) |
|-----------------------------------|--|--|----------------------------------|
| | TRE2008000063 | FAC-003 R2 | 08/01/08 |

(*) Note: The Violation Date shall be: (i) the violation occurred; (ii) the

date that the violation was self-reported; or (iii) the date that the violation has been deemed to have occurred on by Texas RE. Questions regarding the date to use should be directed to the Texas RE.

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

On 01 AUG 08 the C Phase on the Tenaska owned section of one of KPP's interconnect lines between the plant and the point of interconnection experienced a ground fault. Site Inspection conducted by Western Farmers Electric Cooperative (WFEC) personnel at the suspected location of the ground fault did not reveal any concerns. The line was successfully resynchronized to the grid. On 03 AUG 08, C phase again experienced a ground fault. Once again, WFEC's investigation of the suspected location did not reveal any damage. On 04 AUG 08 further investigation of relay data showed the location to be 6.4 miles north of the Kiowa Switching Station in Savoy, TX. WFEC personnel were redispached to investigate. WFEC personnel identified the suspected fault as a tree directly under the C phase of the line. This tree had been identified during the APR 08 ground inspection as a priority 2 work case. This tree was immediately removed.

Kiowa Power Partners, LLC (KPP) conducted a review with WFEC on 04 AUG 08 to determine how this event could have occurred (KPP contracts with WFEC to maintain the interconnect facilities connecting Kiamichi to the ERCOT grid). During this review WFEC stated that the area in question had been identified during the last ground inspection (performed in April, 2008) as a priority 2 work case with a tree estimated to be 13'-14' tall. A priority 2 work case would need to be completed once all priority 1 work was finished.

The consensus opinion was that this tree should not have been able to cause this event. WFEC manages the vegetation clearance process to ensure minimum clearance between the line and vegetation in accordance with IEEE 506-2003. This span of line was designed to maintain a clearance of 26' above ground.

WFEC and KPP personnel went to the event location on 05 AUG 08 to investigate.

Investigation revealed that the line was sagging down to 22' (4 feet below the maximum design for this span).

On 06 AUG 08, KPP reviewed the design data with the firm that designed and installed the line. They agreed there was an issue and agreed to investigate. Subsequent survey of the line showed that the southern pole of this span was out of place and located 100' too far south, resulting in a span longer than designed thus creating additional sag.

As soon as plans were completed and materials were positioned, KPP took a forced outage on 12 SEP 08 to erect an intermediate pole in this span to alleviate this sag condition.

[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 violations associated with this Mitigation Plan:

[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. Subject tree was removed on 04 AUG 08 at time of discovery.
2. Reviewed maintenance work records of contractor responsible for vegetation management.
3. Conducted a site inspection to determine suspected cause of event.
4. Reviewed line design data with firm responsible for engineering of the specific interconnection facilities.
5. Reviewed line construction data with company responsible for construction of the line.
6. Conducted a survey of installed equipment to verify locations against "as-built" documentation.
7. Installed an additional pole between existing poles identified as 9-2 and 9-3 to rectify installation error in span.
8. Reviewed the installation of other critical pole locations along the specific interconnection facilities.

[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 and the violations associated with this Mitigation Plan are corrected:

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

| Milestone Activity | Proposed Completion Date* (shall not be more than 3 months apart) |
|--------------------|--|
| | |

(*) 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.

[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:

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

Section E: Interim and Future Reliability Risk

Check this box ☒ and proceed and respond to Part E.2 and E.3, 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, 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:

[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 incurs further violations of the same or similar reliability standards requirements in the future:

Construction of an additional pole in the span between poles 9-2 and 9-3 eliminated the excess sag condition responsible for the events. Field inspections associated with the vegetation management plan can now be conducted and subsequent work plans for vegetation developed with confidence that the clearance assumed is correct for this span.

[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:

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

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, Texas RE for acceptance by Texas RE 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 the Vice President, Operations of Tenaska, Inc.
- 2. I am qualified to sign this Mitigation Plan on behalf of Kiowa Power Partners, LLC.
- 3. I have read and understand Kiowa Power Partners, LLC'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, including Appendix 4(C) (Compliance Monitoring and Enforcement Program of the North American Electric Reliability Corporation" (NERC CMEP)).
- 4. I have read and am familiar with the contents of the foregoing Mitigation Plan.
- 5. Kiowa Power Partners, LLC agrees to be bound by, and comply with, the Mitigation Plan, including the timetable completion date, as approved by Texas RE and approved by NERC.

Authorized Individual Signature


(Electronic signatures are acceptable; see CMEP)

Name (Print): Todd S. Jonas
Title: Vice President, Operations
Date: 20 NOV 08

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]

Submit completed and signed forms to mitigation@texasre.org

Please direct any questions regarding completion of this form to:

Texas Regional Entity
Rashida Williams
512-225-7056
rashida.williams@texasre.org

KIOWA POWER PARTNERS, LLC

1044 N. 115th Street, Suite 400
Omaha, Nebraska 68154-4446
402-691-9500
Fax: 402-691-9700

March 04, 2009

Mr. Jeff Whitmer
Manager, Compliance Enforcement
Texas Regional Entity
2700 Via Fortuna, Suite 225
Terrace II
Austin, TX 78746

RE: NERC Violation TRE 200800063
Kiowa Power Partners, LLC

Dear Jeff,

Regarding your letter of March 03, 2009, the Mitigation Plan for the referenced event was completed on September 12, 2008 and filed with TRE on November 20, 2008.

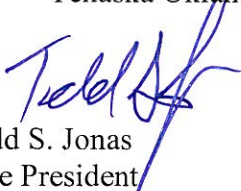
If you have any questions, please don't hesitate to contact me at 402-691-9548.

Sincerely,

KIOWA POWER PARTNERS, LLC

By: Tenaska Oklahoma, Inc., Its Managing Member

By:


Todd S. Jonas
Vice President

cc: Robert Pope

Attachment b

**Texas RE's Verification of Completion dated
October 12, 2009**

October 12, 2009

Robert Bell
Plant Engineer
rbell@tenaska.com

Kiowa Power Partners, LLC (Kiowa)
NERC ID#: NCR04088
Violation Number: TRE200800063

Re: Texas Regional Entity (Texas RE) Mitigation Plan Verification of Completion

Robert Bell:

As a result of a periodic data submittal dated September 15, 2008 and additional information provided on November 12, 2008, it was discovered that Kiowa did not properly execute their Vegetation Management Program resulting in two instances, on August 1st and August 3rd, 2008, of ground faults. The cause of the faults was identified to be a tree located directly under the C Phase of the line. The transmission line span was found to be sagging down to 22 feet above the ground, while it was designed for a clearance of 26 feet. After reviewing the site, Kiowa determined that one of the transmission poles was out of place.

Kiowa certified that the mitigation plan for this violation was completed on September 12, 2008. Texas RE conducted an on-site inspection, on July 28, 2009; to verify that an additional pole was installed to shorten the span where the faults occurred. Texas RE also visually confirmed adequate tree clearance in the right-of-way for several spans south of the fault location. Kiowa provided pictures, to Texas RE, taken after the vegetation contact that shows the contact tree was removed. Texas RE also reviewed provided vegetation maintenance work records for ground and aerial inspections. Texas RE's review of the above documents along with line design data, line construction date, and surveys of installed equipment demonstrate completion of Kiowa's mitigation plan by the certified completion date.

Based on evidence presented by Kiowa and reviewed by Texas RE on July 31, 2009, this letter confirms the above mentioned mitigation plan is complete. If you have any questions, please feel free to contact Rashida Caraway at (512) 225-7056 or via e-mail at Rashida.Caraway@TexasRE.org.

Respectfully submitted,

Jeff Whitmer
Texas Regional Entity
Manager, Compliance Enforcement
(512) 225-7030
Email: Jeff.Whitmer@TexasRE.org

Attachment c

Disposition Document

DISPOSITION OF VIOLATION¹

NERC TRACKING
NO.

TRE200800063

REGIONAL ENTITY TRACKING
NO.

ERCOT0809KIO001

NOC#

NOC-534

REGISTERED ENTITY

Kiowa Power Partners, LLC (Kiowa)

NERC REGISTRY ID

NCR04088²

REGIONAL ENTITY

Texas Regional Entity (Texas 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 | X | | | | | | | | X | | | |
| | | 6/28/07 | 9/26/07 | | | | | | | | 6/28/07 | | | |

* VIOLATION APPLIES TO SHADED FUNCTIONS

DESCRIPTION OF THE REGISTERED ENTITY

Kiowa is a Delaware limited liability company qualified to do business in the state of Oklahoma. Kiowa's home office is located in Omaha, Nebraska. Kiowa owns a 1,220 MW combined cycle, gas-fired electric generation station located in Pittsburg County, Oklahoma. The station's design allows electricity to be delivered to either the Southwest Power Pool, where the plant is located, or to the Texas region grid via an interconnecting transmission line. The transmission line is the first to connect a generating plant located outside Texas to the Texas grid. Electricity generated from Kiowa's facility is sold under an electricity manufacturing agreement with its sole customer Shell Energy North America for resale. Kiowa operates as a subsidiary of Tenaska.

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 The Mitigation Plan incorrectly refers to Kiowa's NERC Registry ID in the SPP region (NCR01113).

II. VIOLATION INFORMATION

| RELIABILITY STANDARD | REQUIREMENT(S) | SUB-REQUIREMENT(S) | VRF(S) | VSL(S) |
|----------------------|----------------|--------------------|-------------|---------------|
| FAC-003-1 | 2 | | High | Severe |

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

The purpose statement of FAC-003-1 provides:

To improve the reliability of the electric transmission systems by preventing outages from vegetation located on transmission rights-of-way (ROW) and minimizing outages from vegetation located adjacent to ROW, maintaining clearances between transmission lines and vegetation on and along transmission ROW, and reporting vegetation related outages of the transmission systems to the respective Regional [Entities] and the North American Electric Reliability [Corporation].

FAC-003-1 Requirement 2 (R2) provides:

R2. The Transmission Owner shall create and implement an annual plan for vegetation management work to ensure the reliability of the system. The plan shall describe the methods used, such as manual clearing, mechanical clearing, herbicide treatment, or other actions. The plan should be flexible enough to adjust to changing conditions, taking into consideration anticipated growth of vegetation and all other environmental factors that may have an impact on the reliability of the transmission systems. Adjustments to the plan shall be documented as they occur. The plan should take into consideration the time required to obtain permissions or permits from landowners or regulatory authorities. Each Transmission Owner shall have systems and procedures for documenting and tracking the planned vegetation management work and ensuring that the vegetation management work was completed according to work specifications.

VIOLATION DESCRIPTION

On September 15, 2008, Kiowa submitted a periodic data submittal in accordance with FAC-003-1 R3³ indicating that it experienced ground faults on August 1, 2008 and August 3, 2008 as a result of vegetation contacts. The fault on August 1, 2008 occurred on the C Phase of a 345 kV Kiowa transmission line located in Northern

³ FAC-003-1 R3 requires entities to submit data on a quarterly basis to its Regional Entity for sustained transmission line outages determined by the Transmission Owner to have been caused by vegetation. In the Texas RE region, entities submit these periodic data submittals on a monthly basis.

Texas. At the time, the circuit was loaded at 588 MW and the resulting outage lasted approximately 6 hours and limited plant output to approximately 1,000 MW. After a visual inspection revealed no obvious contacts of vegetation in regard to the circuit at the suspected fault location, the circuit was re-energized. The fault on August 3, 2008 also occurred on the C Phase of the same circuit. At the time, the circuit was loaded at 593 MW and the resulting outage lasted approximately 1.5 hours and limited plant output to approximately 1,000 MW. The second event occurred at the same location as the prior event which had been investigated for vegetation with no corrective actions identified. Investigation of the suspected location did not reveal any damage. Discussions with the contractor led to a decision to reclose breaker if the alarm cleared normally, which it did. Digital Fault Recording data investigated on August 4, 2008 revealed the Fault Location to be 6.4 miles north of the Kiowa Switching Station in Savoy, TX. The cause of the fault was identified to be a tree located directly under the C Phase of the circuit. The tree was immediately removed.

Previously, in April 2008, the subject tree had been estimated to be 13 feet to 14 feet tall and was flagged as a priority two (2) work case, to be addressed after all priority one (1) cases. The subject tree was flagged as a priority two (2) work case because the line was designed for a clearance of 26 feet and the tree was outside the defined Clearance 2 of ten (10) feet.

At an on-site investigation, after the faults, it was determined that the ground clearance of transmission line span was found to be 22 feet while it was designed for a clearance of 26 feet. After reviewing the site, Kiowa determined that one of the transmission poles was installed one hundred feet from its designed location which contributed to the excess sag, however, even if the pole had been correctly placed so the line was 26 feet above the ground, the tree would have entered the defined Clearance of ten (10) feet because the tree was estimated to be 17 feet to 18 feet tall at the time of contact.

Although there were two (2) instances of ground faults, these faults were symptomatic of a single instance of an improperly executed transmission vegetation management program (TVMP). As such, Texas RE determined that the two ground faults resulted in a single violation of the subject Standard.

RELIABILITY IMPACT STATEMENT- POTENTIAL AND ACTUAL

Texas RE determined that the violation did not pose a serious or substantial risk to the reliability of the bulk power system (BPS) because a loss of Kiowa's single transmission line would isolate Kiowa's generation plant and an effect on the grid would be the loss of the 1,220 MW provided by Kiowa which would be purchased on the spot market.

IS THERE A SETTLEMENT AGREEMENT YES ☒ NO ☐

WITH RESPECT TO THE VIOLATION(S), REGISTERED ENTITY

| | | |
|--|-----|-------------------------------------|
| NEITHER ADMITS NOR DENIES IT (SETTLEMENT ONLY) | YES | <input checked="" type="checkbox"/> |
| ADMITS TO IT | YES | <input type="checkbox"/> |
| DOES NOT CONTEST IT (INCLUDING WITHIN 30 DAYS) | YES | <input type="checkbox"/> |

WITH RESPECT TO THE ASSESSED PENALTY OR SANCTION, REGISTERED ENTITY

| | | |
|---------------------------------|-----|-------------------------------------|
| ACCEPTS IT/ DOES NOT CONTEST IT | YES | <input checked="" type="checkbox"/> |
|---------------------------------|-----|-------------------------------------|

III. DISCOVERY INFORMATION

METHOD OF DISCOVERY

| | |
|------------------------------------|-------------------------------------|
| SELF-REPORT | <input type="checkbox"/> |
| SELF-CERTIFICATION | <input type="checkbox"/> |
| COMPLIANCE AUDIT | <input type="checkbox"/> |
| COMPLIANCE VIOLATION INVESTIGATION | <input type="checkbox"/> |
| SPOT CHECK | <input type="checkbox"/> |
| COMPLAINT | <input type="checkbox"/> |
| PERIODIC DATA SUBMITTAL | <input checked="" type="checkbox"/> |
| EXCEPTION REPORTING | <input type="checkbox"/> |

DURATION DATE(S) **8/1/2008, when Kiowa experienced the initial vegetation related outage, through 9/12/2008, the date Kiowa completed its Mitigation Plan.**

DATE DISCOVERED BY OR REPORTED TO REGIONAL ENTITY **9/15/2008**

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"/> |

IV. MITIGATION INFORMATION

FOR FINAL ACCEPTED MITIGATION PLAN:

| | |
|-----------------------------------|--------------------|
| MITIGATION PLAN NO. | MIT-08-1524 |
| DATE SUBMITTED TO REGIONAL ENTITY | 11/20/2008 |
| DATE ACCEPTED BY REGIONAL ENTITY | 3/3/2009 |
| DATE APPROVED BY NERC | 4/6/2009 |
| DATE PROVIDED TO FERC | 4/9/2009 |

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

MITIGATION PLAN COMPLETED YES ☒ NO ☐

EXPECTED COMPLETION DATE **9/12/2008**

EXTENSIONS GRANTED **N/A**

ACTUAL COMPLETION DATE **9/12/2008**

DATE OF CERTIFICATION LETTER **11/20/2008 (within Mitigation Plan) and 3/4/2009**

CERTIFIED COMPLETE BY REGISTERED ENTITY AS OF **9/12/2008**

DATE OF VERIFICATION LETTER **10/12/2009**

VERIFIED COMPLETE BY REGIONAL ENTITY AS OF **9/12/2008**

ACTIONS TAKEN TO MITIGATE THE ISSUE AND PREVENT RECURRENCE

- 1. Removed the subject tree;**
- 2. Reviewed maintenance work records of contractor responsible for vegetation management;**
- 3. Conducted a site inspection to determine suspected cause of the event;**
- 4. Reviewed line design data with firm responsible for engineering the specific interconnection facilities;**
- 5. Reviewed line construction data with the company responsible for construction of the line;**
- 6. Conducted a survey of installed equipment to verify locations against "as-built" documentation;**
- 7. Installed an additional pole between existing poles identified as 9-2 and 9-3 to rectify installation error in span; and**
- 8. Reviewed the installation of other critical pole locations along the specific interconnection facilities.**

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. Texas RE conducted an on-site inspection, on July 28, 2009, to verify that an additional pole was installed to shorten the span where the faults occurred;**

2. Texas RE visually confirmed adequate tree clearance in the ROW for several spans south of the fault location;
3. Kiowa provided pictures taken after the vegetation contact that shows the contact tree was removed;
4. vegetation maintenance work records for ground and aerial inspections; and
5. line design data, line construction data, and surveys of installed equipment.

V. PENALTY INFORMATION

TOTAL ASSESSED PENALTY OR SANCTION OF **\$25,000** FOR **ONE VIOLATION** OF RELIABILITY STANDARDS.

(1) REGISTERED ENTITY'S COMPLIANCE HISTORY

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

YES ☐ NO ☒

LIST ANY CONFIRMED OR SETTLED VIOLATIONS AND STATUS

ADDITIONAL COMMENTS

PRIOR VIOLATIONS OF OTHER RELIABILITY STANDARD(S) OR REQUIREMENTS THEREUNDER

YES ☐ NO ☒

LIST ANY PRIOR CONFIRMED OR SETTLED VIOLATIONS AND STATUS

ADDITIONAL COMMENTS

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

FULL COOPERATION 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

During a 2008 audit done by Texas RE, documentation on the compliance program was provided. The Reliability Compliance Manual was provided to Texas RE auditors. The manual was dated back to 2007. Entity also provided presentations used on compliance training as well as 2008 compliance training records and compliance checklists

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.

Tenaska senior management supports and participates in the Reliability Standards Internal Compliance Program (RSICP). The Vice President, Operations is supervised by the President and CEO, Operations. The President and CEO, Operations is a member of the Executive Committee and has direct access to the Chairman and CEO of Tenaska, Inc. Senior management reviews and ensures corrective actions are taken regarding the program. The Plant Engineer trains the plant personnel annually on the NERC compliance program. The Plant Engineers attend regional compliance workshops, seminars and webinars to keep up to date on compliance developments throughout the year. New information from these sources is discussed during the aforementioned bi-weekly calls. The RSICP outlines that NERC compliance is to be considered in individuals performance review and can be part of disciplinary actions.

(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
See response to (10) below

(7) ANY OTHER AGGRAVATING FACTORS FOR CONSIDERATION

YES ☐ NO ☒
IF YES, EXPLAIN

(8) ANY OTHER EXTENUATING CIRCUMSTANCES

YES ☐ NO ☒
IF YES, EXPLAIN

(9) ADDITIONAL SUPPORT FOR ASSESSED PENALTY OR SANCTION

In arriving at the penalty amount, Texas RE also considered that Kiowa worked with its tolling agreement counterparty to take a nine hour forced outage prior to its Fall scheduled outage in order to install an intermediate pole in the transmission line span. This unscheduled outage was at additional expense to Kiowa and associated counterparties of between \$150,000 and \$175,000.

In addition, Kiowa has agreed to develop and present training at two upcoming Texas RE compliance workshops. One presentation will focus on the Report from the Ad Hoc Group for Generator Requirements at the Transmission Interface (Report). The Report, which addresses issues of potential reliability gaps, registration compliance, and standards revisions in connection with Generator Owner and Generator Operator facilities up to the transmission interface, has wide-spread industry implications. The training will provide a forum for Generator Owners and Generator Operators to understand the issues and the process being undertaken by the Ad Hoc Group. Kiowa has also agreed to provide a presentation at an upcoming Texas RE compliance workshop about Kiowa's and Tenaska's

(Kiowa's parent company) multi-reliability region compliance program and culture of compliance with the purpose of sharing lessons learned and corporate best practices.

EXHIBITS:

SOURCE DOCUMENT

Kiowa's Periodic Data Submittal for FAC-003-1 R2 submitted September 15, 2008

MITIGATION PLAN

Kiowa's Mitigation Plan submitted November 20, 2008

CERTIFICATION BY REGISTERED ENTITY

Kiowa's Certification of Completion contained in its Mitigation Plan and the formal Certification of Completion dated March 4, 2009

VERIFICATION BY REGIONAL ENTITY

Texas RE's Verification of Completion dated October 12, 2009

OTHER RELEVANT INFORMATION:

NOTICE OF ALLEGED VIOLATION AND PROPOSED PENALTY OR
SANCTION ISSUED

DATE: OR N/A ☒

SETTLEMENT DISCUSSIONS COMMENCED

DATE: **12/18/2008** OR N/A ☐

NOTICE OF CONFIRMED VIOLATION ISSUED

DATE: OR N/A ☒

SUPPLEMENTAL RECORD INFORMATION

DATE(S) **4/15/2010** OR N/A ☐

REGISTERED ENTITY RESPONSE CONTESTED

FINDINGS ☐ PENALTY ☐ BOTH ☐ NO CONTEST ☒

HEARING REQUESTED

YES ☐ NO ☒

DATE

OUTCOME

APPEAL REQUESTED

Attachment d

Notice of Filing

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Kiowa Power Partners, LLC

Docket No. NP10-____-000

NOTICE OF FILING
July 30, 2010

Take notice that on July 30, 2010, the North American Electric Reliability Corporation (NERC) filed a Notice of Penalty regarding Kiowa Power Partners, LLC in the Texas Reliability Entity, Inc. 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