



NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

September 30, 2010

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

**Re: NERC Abbreviated Notice of Penalty regarding Dynegy, Inc.,
FERC Docket No. NP10-__-000**

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Abbreviated Notice of Penalty (NOP) regarding Dynegy, Inc. (DYN),¹ with information and details regarding the nature and resolution of the violation² discussed in detail in the Settlement Agreement

¹ Concurrently being filed is a Notice of Penalty designated as NOC-564 regarding a separate Settlement Agreement between ReliabilityFirst Corporation and DYN for a violation of the same Reliability Standard. On October 14, 2009, NERC submitted an Omnibus filing under NP10-2-000 which addressed violations for certain registered entities including one violation of VAR-002-1 R2 for DYN in the WECC region. 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. On July 30, 2010, NERC filed a Notice of Penalty (NOC-425) under NP10-144-000 which addressed two violations of VAR-002-1 R2 by DYN registered in the WECC region. On August 27, 2010, FERC issued an order stating it would not engage in further review of the July 30, 2010 Notice of Penalty. A Settlement Agreement covering violations of FAC-008-1 R1 for DYN in the ReliabilityFirst region (NOC-432) was approved by the BOTCC on March 10, 2010 and filed with FERC under NP10-98-000 on April 28, 2010. On May 28, 2010, FERC issued an order stating it would not engage in further review of the Notice of Penalty. On March 31, 2009, NERC filed a Notice of Penalty (NOC-010) under NP09-16-000 which addressed two violations of VAR-002-1 R2 by DYN registered in the SERC region. On April 30, 2009, FERC issued an order stating it would not engage in further review of the March 31, 2009 Notice of Penalty. On July 30, 2010, NERC filed a Notice of Penalty (NOC-568) under NP10-152-000 which addressed a violation of PRC-005-1 R2/2.1 by DYN registered in the SERC region. On August 27, 2010, FERC issued an order stating it would not engage in further review of the July 30, 2010 Notice of Penalty. WECC determined that the prior violations did not warrant aggravating the penalty assessed herein because, with one exception, DYN's violation history included violations of unrelated standards and facts, circumstances, and nature, to the instant violation. However, DYN also has a violation of PRC-005 in the SERC region. WECC and DYN resolved the instant violation, through settlement, for a penalty higher than the violation in SERC's region. Thus, the penalty assessed herein appropriately reflects the facts and circumstances of the instant violation.

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.

(Attachment c) and the Disposition Document (Attachment a), 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

On July 14, 2009,⁴ DYN submitted a Self-Certification for its non-compliance with PRC-005-1 R2/2.1 because it was not maintaining and testing station batteries as required by its Maintenance and Testing Program. This NOP is being filed with the Commission because the Western Electricity Coordinating Council (WECC) and DYN have entered into a Settlement Agreement to resolve all outstanding issues arising from WECC's determination and findings of the enforceable violation of PRC-005-1 R2/2.1. According to the Settlement Agreement, DYN stipulates to the facts set forth in the Settlement Agreement and has agreed to the assessed penalty of thirty thousand dollars (\$30,000), 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 WECC200901680 is being filed in accordance with the NERC Rules of Procedure and the CMEP.

Statement of Findings Underlying the Violation

This NOP incorporates the findings and justifications set forth in the Settlement Agreement executed on June 14, 2010, by and between WECC and DYN. 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.

Region	Registered Entity	NOC ID	NERC Violation ID	Reliability Std.	Req. (R)	VRF	Total Penalty (\$)
WECC	Dynegy, Inc.	NOC-590	WECC200901680	PRC-005-1	2.1	High ⁵	30,000

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

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).

⁴ DYN submitted a Self Report form on July 13, 2009 which was within the self-certification window and therefore, WECC determined that the proper discovery method was through the self-certification process.

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.

PRC-005-1 R2.1 - OVERVIEW⁶

On July 14, 2009, DYN submitted a Self-Certification⁷ for its non-compliance with PRC-005-1 R2.1. WECC determined that DYN, as a Generator Owner, did not maintain and test its station batteries as required by its Maintenance and Testing Program. Specifically, monthly and quarterly tests were missed or identified as late, test records were missing and some testing was incomplete for DYN's 28 batteries at six plants.

The duration of the PRC-005-1 R2.1 violation was from June 18, 2007, when the Standard became mandatory and enforceable, through June 30, 2009, when all DYN's required Protection System battery inspections and tests for all the DYN plants were current.

WECC concluded that this violation did not pose a serious or substantial risk to the reliability of the BPS because battery health is continuously monitored through indicators showing battery bank voltage deterioration and battery grounds in DYN's plant control room. In addition, each of DYN's plants has a low capacity factor because the combustion turbines are peaking units and therefore are operational only a low percentage of the time.

Statement Describing the Assessed Penalty, Sanction or Enforcement Action Imposed⁸

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,⁹ the NERC BOTCC reviewed the Settlement Agreement and supporting documentation on August 3, 2010. The NERC BOTCC approved the Settlement Agreement, including WECC's assessment of a thirty thousand dollar (\$30,000) financial penalty against DYN 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:¹⁰

1. the violation constituted DYN's first occurrence in the WECC region, although DYN has had other occurrences in other regions, as described above;

⁶ Further information on this violation is contained in the Disposition Document included as Attachment a to the Settlement Agreement.

⁷ DYN submitted a Self Report form on July 13, 2009 which was within the self-certification window and therefore, WECC determined that the discovery method was through the self-certification process.

⁸ See 18 C.F.R. § 39.7(d)(4).

⁹ *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). See also *North American Electric Reliability Corporation*, "Notice of No Further Review and Guidance Order," 132 FERC ¶ 61,182 (2010).

¹⁰ DYN did not receive credit for having a compliance program because it was not reviewed by WECC.

2. DYN submitted a Self-Report, although the Self-Report was submitted just one day prior to DYN's response to its Self-Certification;
3. WECC reported that DYN 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. DYN was not maintaining and testing 100% of its batteries as required by its Protection System maintenance and testing program but had self-certified compliant to the Standard six months prior to its Self Report;
6. the violations did not pose a serious or substantial risk to the BPS; and
7. 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 thirty thousand dollars (\$30,000) is appropriate for the 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 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) Disposition Document, included as Attachment a;
- b) DYN's Self-Certification dated July 14, 2009, included as Attachment b;
- c) Settlement Agreement by and between WECC and DYN executed June 14, 2010, included as Attachment c;
- d) DYN's Mitigation Plan submitted July 13, 2009, included as Attachment d;
- e) DYN'S Certification of Mitigation Plan Completion dated October 5, 2009, included as Attachment e; and
- f) WECC's Verification of Completion dated November 10, 2009, included as Attachment f.

A Form of Notice Suitable for Publication¹¹

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

¹¹ See 18 C.F.R. § 39.7(d)(6).

Notices and Communications

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

<p>Gerald W. Cauley* President and Chief Executive Officer David N. Cook* Sr. Vice President and General Counsel North American Electric Reliability Corporation 116-390 Village Boulevard Princeton, NJ 08540-5721 (609) 452-8060 (609) 452-9550 – facsimile gerry.cauley@nerc.net david.cook@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>Dan Roethemeyer* Director, Electric System Operations and Compliance Dynegy Inc. (217) 492-6605 dan_roethemeyer@dynegy.com</p> <p>*Persons to be included on the Commission's service list are indicated with an asterisk. NERC requests waiver of the Commission's rules and regulations to permit the inclusion of more than two people on the service list.</p>	<p>Rebecca J. Michael* Assistant General Counsel North American Electric Reliability Corporation 1120 G Street, N.W. Suite 990 Washington, DC 20005-3801 (202) 393-3998 (202) 393-3955 – facsimile rebecca.michael@nerc.net</p> <p>Louise McCarren* Chief Executive Officer Western Electricity Coordinating Council 155 North 400 West, Suite 200 Salt Lake City, UT 84103 (801) 883-6868 (801) 582-3918 – facsimile Louise@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) 883-6857 (801) 883-6894 – facsimile SMooy@wecc.biz</p>
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Conclusion

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

Respectfully submitted,

Gerald W. Cauley
President and Chief Executive Officer
David N. Cook
Sr. Vice President and General Counsel
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/s/ Rebecca J. Michael
Rebecca J. Michael
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cc: Dynegy, Inc.
Western Electricity Coordinating Council

Attachments

Attachment a

Disposition Document

DISPOSITION OF VIOLATION¹**Dated August 3, 2010**NERC TRACKING
NO.**WECC200901680**REGIONAL ENTITY TRACKING
NO.**DYN_WECC20091853**

NOC#

NOC-590REGISTERED ENTITY
Dynegy, Inc. (DYN)NERC REGISTRY ID
NCR00200REGIONAL 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	X											
		6/17/07	6/17/07											

* VIOLATION APPLIES TO SHADED FUNCTIONS

DESCRIPTION OF THE REGISTERED ENTITY

DYN provides wholesale power, capacity and ancillary services to utilities, cooperatives, municipalities and other energy companies in seven states in key U.S. regions of the Midwest, Northeast, and West Coast. The company's power generation portfolio consists of approximately 12,500 MW of baseload, intermediate and peaking power plants fueled by a mix of coal, fuel oil and natural gas. DYN operates approximately 7,139 MW of capacity within the WECC Region.

DYN is registered as a Generator Operator and a Generation Owner in four NERC regions Northeast Power Coordinating Council, Inc. (NPCC), ReliabilityFirst Corporation (RFC), SERC Reliability Coordination (SERC) and WECC under the same NERC Compliance Registry ID number.

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.

II. VIOLATION INFORMATION

RELIABILITY STANDARD	REQUIREMENT(S)	SUB-REQUIREMENT(S)	VRF(S)	VSL(S)
PRC-005-1	2	1	High²	Severe

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

The purpose statement of Reliability Standard PRC-005-1 provides: “To ensure that all transmission and generation Protection Systems^[3] affecting the reliability of the Bulk Electric System (BES) are maintained and tested.” (Footnote added.)

PRC-005-1 R2 requires:

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 [Entity] 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.

VIOLATION DESCRIPTION

Although DYN Self-Certified compliant with PRC-005-1 R2 in 2008, on July 14, 2009,⁴ DYN submitted a Self-Certification for its non-compliance with PRC-005-1 R2.1 because its internal review of its Protection System maintenance and testing records revealed that it was not maintaining and testing station batteries as required by its Maintenance and Testing Program. Specifically, monthly and quarterly tests were missed or identified as late, test records were missing and some testing was incomplete DYN’s 28 batteries between June 18, 2007 through June 30, 2009, as follows:

² 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.

³ *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.”

⁴ DYN submitted a Self Report form on July 13, 2009 which was within the self-certification window and therefore, WECC determined that the proper discovery method was through the self-certification process.

Testing Missed or Not Completed:

- At the Arlington Valley plant (5 station batteries) a total of 64 monthly battery inspections were missed or not completed and 22 quarterly battery tests were missed or not completed.
- At the Griffith plant (3 station batteries) a total of 69 monthly battery inspections were missed or not completed and 21 quarterly battery tests were missed or not completed.
- At the Morro Bay plant (5 station batteries) a total of 65 monthly battery inspections were missed or not completed and 10 quarterly battery tests were missed or not completed.
- At the Moss Landing plant (7 station batteries) a total of 115 monthly battery inspections were missed or not completed and 3 quarterly battery tests were missed or not completed.
- At the Oakland plant (3 station batteries) a total of 15 quarterly battery tests were missed or not completed.

Late Testing and Missing Testing Records:

- The Arlington Valley, Morro Bay, Moss Landing and South Bay plants did not complete a total of 21 quarterly battery tests on schedule.
- The South Bay plant could not locate evidence to demonstrate that it had completed 15 of the quarterly battery tests.

Incomplete Testing:

- For the testing that was completed, the majority, but not all of the specific individual required inspection and testing items were completed at all of the plants:
 - The plants stated that 34% of the monthly required inspection items were completed but were not documented;
 - The plants did not complete 7% of the total quarterly required test items; and
 - The plants stated that 17% of the quarterly required test items were completed but were not documented.

DYN stated that the causes of the its non-compliance were: (1) competing plant work priorities and insufficient knowledge of the NERC compliance requirements; (2) inadequate compliance ownership and controls for maintenance and testing activities; (3) broad interpretations of the definition of “quarterly;” (4) DYN did not issue a typical form to be used to document maintenance and testing; (5) DYN’s historical forms did not include all the items that needed to be checked and recorded; and (6) plants were confused about the applicability of some or all of the provision of the *Dynegy Generation Operations Procedure G6-15* to certain types of batteries.

RELIABILITY IMPACT STATEMENT- POTENTIAL AND ACTUAL

WECC concluded that, this violation did not pose a serious or substantial risk to the reliability of the BPS because battery health is continuously monitored through indicators showing battery bank voltage deterioration and battery grounds in DYN's plant control room. In addition, each of DYN's plants has a low capacity factor because the combustion turbines are peaking units and therefore are operational only a low percentage of the time.

IS THERE A SETTLEMENT AGREEMENT YES ☒ NO ☐

WITH RESPECT TO THE VIOLATION(S), REGISTERED ENTITY

NEITHER ADMITS NOR DENIES IT (SETTLEMENT ONLY) YES ☐
 ADMITS TO IT YES ☒

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	<input type="checkbox"/>
SELF-CERTIFICATION	<input checked="" 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 type="checkbox"/>
EXCEPTION REPORTING	<input type="checkbox"/>

DURATION DATE(S) 6/18/07 (when the Standard became mandatory and enforceable) through 6/30/09 (when all DYN's required Protection System battery inspections and tests for all the DYN plants were current)

DATE DISCOVERED BY OR REPORTED TO REGIONAL ENTITY **7/13/09**

IS THE VIOLATION STILL OCCURRING

YES ☐ NO ☒

IF YES, EXPLAIN

REMEDIAL ACTION DIRECTIVE ISSUED YES ☐ NO ☒

PRE TO POST JUNE 18, 2007 VIOLATION YES ☐ NO ☒

IV. MITIGATION INFORMATION

FOR FINAL ACCEPTED MITIGATION PLAN:

MITIGATION PLAN NO.	MIT-07-2065
DATE SUBMITTED TO REGIONAL ENTITY	7/14/09
DATE ACCEPTED BY REGIONAL ENTITY	10/14/09
DATE APPROVED BY NERC	10/27/09
DATE PROVIDED TO FERC	10/28/09

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

N/A

MITIGATION PLAN COMPLETED YES ☒ NO ☐

EXPECTED COMPLETION DATE	10/1/09
EXTENSIONS GRANTED	N/A
ACTUAL COMPLETION DATE	10/1/09

DATE OF CERTIFICATION LETTER	10/5/09
CERTIFIED COMPLETE BY REGISTERED ENTITY AS OF	10/1/09

DATE OF VERIFICATION LETTER	11/10/09
VERIFIED COMPLETE BY REGIONAL ENTITY AS OF	10/1/09

ACTIONS TAKEN TO MITIGATE THE ISSUE AND PREVENT RECURRENCE

By October 1, 2009, DYN conducted NERC compliance training on NERC Standard PRC-005-1 and the related battery inspection and testing requirements in the *Dynegy Generation Procedure G6-15* in all WECC Plants with personnel that are involved in the approval, scheduling and completion of the battery related activities.

By August 1, 2009, DYN had:

- established a “Compliance Owner” at each WECC Plant for battery inspection and testing work. The Compliance Owner is charged with ensuring timely completion and documentation of the required maintenance and testing;
- revised the *Dynegy Generation Procedure G6-15* to (1) clarify the definition of “monthly” and “quarterly” and the grace period associated with each; and (2) include typical Monthly Inspection and Quarterly Test Forms that capture required data and clarify applicability of certain procedure provision to different types of batteries;

- revised the Monthly Inspection and Quarterly Test Forms at all 6 plants to be consistent with the items required to be checked and recorded by *Dynegy Generation Procedure G6-15*; and
- revised the *Dynegy Generation Regulatory Compliance Procedure G9-03* to required the Plant Manager's signature on all Plant Self-Certification of compliance or non-compliance.

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)

- Training records and materials for each Plant;
- Documentation demonstrating that Compliance Owners had been established at each Plant;
- DYN's revised Protection System maintenance and testing program, *Dynegy Generation Procedure G6-15 Rev 3*;
- Copies of revised Monthly Inspection and Quarterly Test Forms; and
- DYN's revised Regulatory Compliance Procedure, *Dynegy Generation Regulatory Compliance Procedure G9-03*.

V. PENALTY INFORMATION

TOTAL ASSESSED PENALTY OR SANCTION OF **\$30,000** FOR **ONE** VIOLATION OF RELIABILITY STANDARDS.

(1) REGISTERED ENTITY'S COMPLIANCE HISTORY⁵

PRIOR VIOLATIONS OF ANY OF THE INSTANT RELIABILITY STANDARD(S) OR REQUIREMENT(S) THEREUNDER
 YES ☒ NO ☐

LIST ANY CONFIRMED OR SETTLED VIOLATIONS AND STATUS

- Concurrently being filed is a Notice of Penalty designated as **NOC-564** regarding a separate Settlement Agreement between **ReliabilityFirst Corporation** and **DYN** for a violation of the same Reliability Standard.
- A Settlement Agreement covering a violation of **PRC-005-1 R2.1** for **DYN** in the **SERC** region (**NOC-568**) was approved by the **BOTCC** on **June 10, 2010** and filed with **FERC** under **NP10-152-000** on **July 30, 2010**. On **August 27, 2010**, **FERC** issued an order

⁵DYN also has a violation of PRC-005 in the SERC region. WECC and DYN resolved the instant violation, through settlement, for a penalty higher than the violation in SERC's region. The penalty assessed herein appropriately reflects the facts and circumstances of the instant violation.

stating it would not engage in further review of the Notice of Penalty.

ADDITIONAL COMMENTS

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

YES ☒ NO ☐

LIST ANY PRIOR CONFIRMED OR SETTLED VIOLATIONS AND STATUS

In the WECC Region

- A Settlement Agreement covering a violation of VAR-002-1 R2 for DYN in the WECC region (NOC-425) was approved by the BOTCC on June 10, 2010 and filed with FERC under NP10-144-000 on July 30, 2010. On August 27, 2010, FERC issued an order stating it would not engage in further review of the Notice of Penalty.
- On October 14, 2009, NERC submitted an Omnibus filing under NP10-2-000 which addressed violations for certain registered entities including one violation of VAR-002-1 R2 for DYN in the WECC region. 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.

In the ReliabilityFirst Region

- A Settlement Agreement covering violations of FAC-008-1 R1 for DYN in the ReliabilityFirst region (NOC-432) was approved by the BOTCC on March 10, 2010 and filed with FERC under NP10-98-000 on April 28, 2010. On May 28, 2010, FERC issued an order stating it would not engage in further review of the Notice of Penalty.

In the SERC Region

- On March 31, 2009, NERC filed a Notice of Penalty (NOC-010) under NP09-16-000 which addressed two violations of VAR-002-1 R2 by DYN registered in the SERC region. On April 30, 2009, FERC issued an order stating it would not engage in further review of the March 31, 2009 Notice of Penalty.

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 ☐ UNKNOWN ☒
EXPLAIN

WECC did not review DYN’s internal compliance program.

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

DYN's Self-Certification dated July 14, 2009

MITIGATION PLAN

DYN's Mitigation Plan submitted July 13, 2009

CERTIFICATION BY REGISTERED ENTITY

DYN's Certification of Completion dated October 5, 2009

VERIFICATION BY REGISTERED ENTITY

WECC's Verification of Completion dated November 10, 2009

OTHER RELEVANT INFORMATION:

NOTICE OF ALLEGED VIOLATION AND PROPOSED PENALTY OR
SANCTION ISSUED

DATE: **11/3/09** OR N/A ☐

SETTLEMENT DISCUSSIONS COMMENCED

DATE: **11/13/09** 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 b

DYN's Self-Certification dated July 14, 2009

Compliance

Member Portal

Dynegy Inc.

Logged in as:

Dan Roethemeyer

Log Out

System Administration

Compliance

File Upload

PRC-005-1 Self Certification - Transmission and Generation Protection System Maintenance and Testing - July 1, 2008 - June 30, 2009

Save Item | Delete Item | Cancel Changes | Save PDF | Return To Search Results

New Mitigation Plan | Attachments (0)

This form was marked as ready to be added to a certification statement on 7/14/2009.

*Required Fields

Status: Saved

Technical Contact

* Gregory A. Mason (gregory.mason@dynegy.com) Find | Clear | New Contact

WECC will disclose this information to NERC and other third parties, only as required, and in accordance with established procedures pursuant to section 1500 of the NERC rules of procedure.

Applicable Function(s): GO

As an authorized representative of **Dynegy Inc.**, I certify the following:

C NC N/A **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.

Additional Comments

C NC N/A **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 Organization 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.

Violation was previously self-reported or identified by Dynegy Inc.

Yes No

Date of Violation

6/18/2007

Additional Comments (Violation)

N/A

Violation Severity Level (Levels of Non-Compliance)



Provide a detailed explanation of non-compliance

On 6/13/09, Dynegy inc. submitted a Self Report and an associated Mitigation Plan to WECC for various issues related to battery inspection and testing for its Plants operating in the WECC Region. The causes of the possible violation identified above include:

1. The battery inspections and tests were missed /not completed at the Arlington Valley, Griffith, Morro Bay, Moss Landing and Oakland Plants due to competing plant work priorities and insufficient knowledge of the NERC compliance requirements for the required battery inspections and tests. In addition, these Plants did not have adequate compliance ownership and controls for battery maintenance and testing activities to ensure the completion of the required battery work and proper documentation of that work.
2. The quarterly battery tests were primarily not completed on schedule due to the Arlington Valley, Morro Bay, Moss Landing and South Bay Plants making a broad interpretation that the "quarterly" testing requirement in Dynegy Generation Operations Procedure G6-15 meant testing could be completed anytime during a quarter. The intent of the Procedure was to complete the battery tests approximately every 90 days (with an additional grace period of about 3 weeks).
3. Three causes contributed to all of the individual items listed for the monthly inspections and quarterly tests in Dynegy Generation Operations Procedure G6-15 not being checked (and recorded when required) by these Plants. First, when Dynegy Generation Operations Procedure G6-15 was issued it did not include a typical form to be used by all Plants. Second, the historic forms used by the Plants to make these inspections and tests had not been changed to have the items that need to be checked (and recorded where required) to directly correspond to the items listed in Dynegy Generation Operations Procedure G6-15. Third, some Plants were confused about the applicability of some or all of the provisions of Dynegy Generation Operations Procedure G6-15 to certain types of batteries.

Reliability Impact to the Bulk Power System

Minimal



Describe the Reliability Impact of this Non-Compliance

There has been no known impact on system reliability due to the nature of this possible violation. Also, Dynegy Inc. has not received any calls from the Reliability Coordinator (i.e. WECC) or the associated Transmission Operators (i.e. CAISO, WAPA, or SRP) indicating any reliability concerns or problems related to this possible non-compliance.

Summary of Self Certification Submittal [Auto Populated from responses]:

Dynegy Inc. is in Compliance with NERC Reliability Standard PRC-005-1 Requirement(s): R1

Dynegy Inc. is Non-Compliant with NERC Reliability Standard PRC-005-1 Requirement(s): R2

[Return to top](#)

b Ready to Create Certification Statement

Attachment c

**Settlement Agreement by and between WECC
and DYN executed June 14, 2010**

**SETTLEMENT AGREEMENT
OF
WESTERN ELECTRICITY COORDINATING COUNCIL
AND
DYNEGY, INC.**

Western Electricity Coordinating Council ("WECC") and Dynegy, Inc. ("DYN") (collectively the "Parties") hereby enter into this Settlement Agreement ("Agreement") on this 20 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 DYN by WECC that resulted in certain WECC determinations and findings regarding one alleged DYN violation of the following North American Electric Reliability Corporation ("NERC") Reliability Standard ("Reliability Standards" or "Standards"):

WECC200901680: PRC-005-1 R2, R2.1 Protection System Maintenance and Testing

B. DYN is a Delaware corporation. Its principal offices are located in Houston, Texas. DYN was registered on the NERC Compliance Registry on June 17, 2007 as a Generator Owner and Generator Operator.

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 DYN for subsequent violations of the same Reliability Standards addressed herein and taking enforcement action, if necessary. Such enforcement action can include assessing penalties against DYN 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 DYN hereby agree and stipulate to the following:

I. Stipulated Violation Facts

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.*

R. 2.2: *Date each Protection System device was last tested/maintained.*

DYN is subject to this Standard because it was registered on the NERC Compliance Registry on June 17, 2007 as a Generator Owner. DYN submitted a Self-Report to address this violation on July 13, 2009, and self-certified non-compliance with this Standard on July 14, 2009. DYN stated that a review of its Protection System maintenance and testing records revealed the following deficiencies relating to the inspection and testing of station batteries:

1. Testing Missed or Not Completed

The following monthly inspections and quarterly tests at the Arlington Valley, Griffith, Morro Bay, Moss Landing and Oakland plants were missed or not completed for the period from June 18, 2007 through June 30, 2009:

- a. Arlington Valley plant (5 station batteries) - a total of 64 monthly battery inspections were missed or not completed and 22 quarterly battery tests were missed or not completed.
- b. Griffith plant (3 station batteries) - a total of 69 monthly battery inspections were missed or not completed and 21 quarterly battery tests were missed or not completed.
- c. Morro Bay plant (5 station batteries) - a total of 65 monthly battery inspections were missed or not completed and 10 quarterly battery tests were missed or not completed.

- d. Moss Landing plant (7 station batteries) - a total of 115 monthly battery inspections were missed or not completed and 3 quarterly battery tests were missed or not completed.
- e. Oakland plant (3 station batteries) - a total of 15 quarterly battery tests were missed or not completed.

2. Late Testing and Missing Testing Records

The Arlington Valley, Morro Bay, Moss Landing and South Bay plants did not complete a total of 21 quarterly battery tests on schedule for the period from June 18, 2007 through June 30, 2009.

In addition, for 15 of the quarterly battery tests at the South Bay plant during this period, the plant has completed preventative maintenance records but the test result documentation could not be located for these tests.

3. Incomplete Testing

DYN's Protection System maintenance and testing plan requires that specific items be checked and recorded during monthly inspections and quarterly tests. A review of testing records indicates that each plant was checking the vast majority, but not all, of the specific individual inspection and testing items. The following specific deficiencies were identified for the monthly inspections and quarterly tests completed for the period from June 18, 2007 to June 30, 2009:

- a. The plants completed, but failed to document, 34 percent of the total monthly inspection items required to be checked.
- b. The plants did not complete 7 percent of the total quarterly test items required to be checked.
- c. The plants completed, but failed to document, 17 percent of the total quarterly test items required to be checked.

DYN stated that all required monthly inspections and quarterly tests for all the DYN plants were current as of June 30, 2009. DYN also stated that the battery performance/load test that is required to be completed every 5 years has been completed at each plant, or a new battery has been installed, within the last 5 years. The Moss Landing load test was completed in November 2009.

DYN stated that its 2008 Self-Certification of compliance with this for the DYN plants was based on inaccurate information provided by the plants in response to corporate data requests for verification of compliance with Dynegy Generation Operations Procedure No. G6-15.

On October 13, 2009, WECC subject matter experts (SME) reviewed DYN's Self-Certification and determined that DYN had a possible violation of this Standard because monthly inspections and quarterly tests were not performed according to DYN's

Protection System maintenance and testing program. WECC SMEs forwarded their findings to the WECC Enforcement Department ("Enforcement") for its review.

Enforcement reviewed DYN's Self-Certification and the findings of the WECC SMEs and determined that DYN has an Alleged Violation of this Standard for failing to inspect and test station batteries within defined intervals as discussed above. Enforcement determined that the violation period for this Alleged Violation is from June 18, 2007, when the Standard became enforceable, until June 30, 2009 when all required battery inspections and quarterly electrical diagnostic tests for all WECC Dynegy Plants were current.

DYN submitted a mitigation plan to address this violation on July 13, 2009. This mitigation plan stated that DYN would (1) conduct NERC compliance training on PRC-005-1 and the related battery inspection and testing requirements in DYN's Protection System maintenance and testing program for all relevant personnel, (2) establish a Compliance Owner that is responsible for ensuring timely completion and documentation of required work at each plant, (3) revise DYN's Protection System maintenance and testing plan to clarify that (i) monthly means 30 days plus a grace period of 7 days and that quarterly means 90 days plus a grace period of 21 days, and (ii) to include typical monthly inspection and quarterly test forms that capture required data and clarify applicability of certain procedure provision to different types of batteries, (4) revise monthly inspection and quarterly test forms at all 6 plants to be consistent with the items required to be checked by DYN's Protection System maintenance and testing program, and (5) revise DYN's Regulatory Compliance Procedures to require the plant manager's signature on all plant Self-Certifications of compliance or non-compliance. This mitigation plan had an expected completion date of October 1, 2009.

DYN certified completion of this mitigation plan on October 5, 2009, certifying that it was completed on October 1, 2009. To demonstrate completion of this mitigation plan, DYN provided WECC with copies of training records and materials, documentation demonstrating that Compliance Owners had been established at each plant, a copy of DYN's revised Protection System maintenance and testing program, copies of revised monthly inspection and quarterly test forms, and a copy of DYN's revised Regulatory Compliance Procedures. On October 14, 2009, WECC SMEs reviewed the completion documentation and verified completion of the mitigation plan.

II. Settlement Terms

A. Payment. To settle this matter, DYN hereby agrees to pay \$30,000 to WECC via wire transfer or cashier's check. DYN shall make the funds payable to a WECC account identified in a Notice of Payment Due that WECC will send to DYN upon approval of this Agreement by NERC and the Federal Energy Regulatory Commission ("FERC"). DYN 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 DYN 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) the quality of the Registered Entity's compliance program; (7) any attempt by the Registered Entity to conceal the violation or any related information; (8) whether the violation was intentional; (9) any other relevant information or extenuating circumstances; and (10) the Registered Entity's ability to pay a penalty.

The following VRF applies to DYN's Alleged Violation in accordance with NERC's VRF Matrix dated April 9, 2010:

This violation of PRC-005-1 R2 has a "High" VRF. Battery health is continuously monitored in DYN's plant control room, and a failure of the battery system would be detected by DYN plant operators. In addition, each of DYN's plants has a low capacity factor and are operational only a low percentage of the time. For these reasons, WECC determined that this violation posed a Minimal risk to the Bulk Electric System ("BES").

In addition, WECC considered several mitigating factors in reaching an agreement with DYN regarding the penalty amount. First, the Alleged Violation addressed by this Agreement is DYN's first assessed noncompliance with the applicable Reliability Standard. Second, DYN mitigated this violation. Third, DYN 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, DYN did not have any

negative compliance history. There was no failure by DYN to comply with applicable compliance directives, nor any evidence of an attempt by DYN to conceal a violation. Finally, there was no evidence that DYN's violation was 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 DYN 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. DYN agrees that the Agreement, upon approval by NERC and FERC, is a final settlement of all matters set forth herein. DYN waives its right to further hearings and appeal, unless and only to the extent that DYN 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 DYN in accordance with the Agreement, the CMEP and the NERC Rules of Procedure. In the event that DYN fails to comply with any of the terms of this Agreement, WECC shall have the right to pursue enforcement, penalty or sanction actions against DYN up to the maximum penalty allowed by the NERC Rules of Procedure. DYN 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. DYN 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 DYN 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.

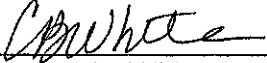
L. Captions. The Agreement's titles, headings and captions are for the purpose of convenience only and in no way define, describe or limit the scope or intent of the Agreement.

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

 6/14/10
Constance B. White Date
Vice President of Compliance

DYNEGY, INC.

 5/26/10
Dan Roethemeyer Date
Director – Electric System Operations and Compliance

Attachment d

DYN's Mitigation Plan submitted July 13, 2009



Mitigation Plan Submittal Form

New ☒ or Revised ☐

Date this Mitigation Plan is being submitted: July 13, 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: Dynegy Inc.

Registered Entity Address: 133 South Fourth Street, Suite 306,
Springfield, IL 62701-1232

NERC Compliance Registry ID: NCR00200

- 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: Greg Mason

Title: Director - Electric System Operations And Compliance

Email: Gregory.A. Mason@dynegy.com

¹ A copy of the WECC CMEP is posted on WECC's website at <http://www.wecc.biz/documents/library/compliance/manuals/Att%20A%20-%20WECC%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.



Western Electricity Coordinating Council

Phone: (217) 492-6604



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)
Unknown	Unknown	R2	Lower	5/29/09	Self Report
Unknown	Unknown	R2.1	High	5/29/09	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:

The causes of the possible violation(s) identified above include:

1. The battery inspections and tests were missed /not completed at the Arlington Valley, Griffith, Morro Bay, Moss Landing and Oakland Plants due to competing plant work priorities and insufficient knowledge of the NERC compliance requirements for the required battery inspections and tests. In addition, these Plants did not have adequate compliance ownership and controls for battery maintenance and testing activities to ensure the completion of the required battery work and proper documentation of that work.



2. The quarterly battery tests were primarily not completed on schedule due to the Arlington Valley, Morro Bay, Moss Landing and South Bay Plants making a broad interpretation that the "quarterly" testing requirement in Dynegy Generation Operations Procedure G6-15 meant testing could be completed anytime during a quarter. The intent of the Procedure was to complete the battery tests approximately every 90 days (with an additional grace period of about 3 weeks).

3. Three causes contributed to all of the individual items listed for the monthly inspections and quarterly tests in Dynegy Generation Operations Procedure G6-15 not being checked (and recorded when required) by these Plants. First, when Dynegy Generation Operations Procedure G6-15 was issued it did not include a typical form to be used by all Plants. Second, the historic forms used by the Plants to make these inspections and tests had not been changed to have the items that need to be checked (and recorded where required) to directly correspond to the items listed in Dynegy Generation Operations Procedure G6-15. Third, some Plants were confused about the applicability of some or all of the provisions of Dynegy Generation Operations Procedure G6-15 to certain types of batteries.

[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:

N/A

[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



Western Electricity Coordinating Council



this Mitigation Plan has been completed, to correct the violations identified above in Part C.2 of this form:

The action plan of Dynegy Inc. includes five specific tasks and actions as follows:

- (1) Training: Conduct NERC compliance training on NERC Standard PRC-005-1 and the related battery inspection and testing requirements in Dynegy Generation Procedure G6-15 in all WECC Plants with the personnel that are involved in the approval, scheduling, and completion of these battery related activities.
- (2) Ownership: Establish a "Compliance Owner(s)" at each WECC Plant for battery inspection and testing work that is charged with ensuring timely completion and documentation of the required work.
- (3) Procedures: Revise Dynegy Generation Procedure G6-15 to (i) clarify that "monthly" means 30 days plus a "grace period" of 7 days and "quarterly" means 90 days plus a "grace period" of 21 days and (ii) include typical Monthly Inspection and Quarterly Test Forms that capture required data and clarify applicability of certain procedure provisions to different types of batteries.
- (4) Inspection Forms: Revise Monthly Inspection and Quarterly Test Forms at all 6 Plants to be consistent with the items required to be checked (and recorded where required) by Dynegy Generation Procedures G6-15.
- (5) Procedures: Revise Dynegy Generation Regulatory Compliance Procedure G9-03 to require the Plant Manager's signature on all Plant Self Certifications of compliance or non-compliance.

[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 alleged or confirmed violations associated with this Mitigation



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Plan corrected: The date by which full implementation of the Mitigation Plan described in D.1 above is to be completed is October 1, 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)
Conduct NERC compliance training on NERC Standard PRC-005-1 and the related battery inspection and testing requirements in Dynegy Generation Procedure G6-15 in all WECC Plants with the personnel that are involved in the approval, scheduling, and completion of these battery related activities.	October 1, 2009
Establish a "Compliance Owner(s)" at each WECC Plant for battery inspection and testing work that is charged with ensuring timely completion and documentation of the required work.	August 1, 2009
Revise Dynegy Generation Procedure G6-15 to (i) clarify that "monthly" means 30 days plus a "grace period" of 7 days and "quarterly" means 90 days plus a "grace period" of 21 days and (ii) include typical Monthly Inspection and Quarterly Test Forms that capture required data and clarify applicability of certain procedure provisions to different types of batteries.	August 1, 2009
Revise Monthly Inspection and Quarterly Test Forms at all 6 Plants to be consistent with the items required to be checked (and recorded where required) by Dynegy Generation Procedures G6-15.	August 1, 2009
Revise Dynegy Generation Regulatory Compliance Procedure G9-03 to require the Plant Manager's signature on all Plant Self Certifications of compliance or non-compliance.	August 1, 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.



Western Electricity Coordinating Council



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:

N/A

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



Western Electricity Coordinating Council



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:

We are not aware of any risks or impacts, caused by the implementation of this Mitigation Plan, to the reliability of the Bulk Power System during our implementation of this Mitigation Plan.
[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:

By completing the outlined steps in our Mitigation Plan, the Dynegy Inc. Plants operating in the WECC Region will minimize the probability of a reoccurrence of this violation.
[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:



Western Electricity Coordinating Council



N/A

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



Western Electricity Coordinating Council

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 Director-Electric System Operations and Compliance of Dynegy Inc.
 2. I am an officer, employee, attorney or other person authorized to sign this Mitigation Plan on behalf of Dynegy Inc.
 3. I understand Dynegy Inc.'s 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. Dynegy Inc. 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): Greg Mason

Title: Director-Electric System Operations And Compliance

Date: 7/13/09



Western Electricity Coordinating Council



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.

N/A

[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 Compliance Manuals website as Manual 2.12:

<http://www.wecc.biz/wrap.php?file=/wrap/Compliance/manuals.html>



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.



Western Electricity Coordinating Council



- 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 e

DYN'S Certification of Mitigation Plan Completion dated October 5, 2009



Western Electricity Coordinating Council

Non-Public and CONFIDENTIAL

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: Dynegy Inc.

NERC Registry ID: NCR00200

Date of Submittal of Certification: October 5, 2009

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

Standard: PRC-005-1

Requirement(s): R2, R2.1

Date Mitigation Plan was scheduled to be completed per accepted Mitigation Plan: October 1, 2009

Date Mitigation Plan was actually completed: October 1, 2009

Additional Comments (or List of Documents Attached): Documents attached are labeled for Milestones 1-5.

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: Greg Mason

Title: Director-Electric System Operations and Compliance

Email: Gregory.A.Mason@dynegy.com

Phone: (217) 492-6604

Authorized Signature:

A handwritten signature in black ink, appearing to read 'Greg Mason', is written over the 'Authorized Signature' label.

Date: 10/5/09

Attachment f

**WECC's Verification of Completion dated
November 10, 2009**

CONFIDENTIAL



Laura Scholl
Managing Director of Compliance

801.819.7619
lscholl@wecc.biz

November 10, 2009

Gregory A. Mason
Director-Electric System Operations and Compliance
Dynegy Inc.
133 South 4th Street, Suite 306
Springfield, Illinois 62701

NERC Registration ID: NCR00200

Subject: Certification of Completion Response Letter

Dear Gregory,

The Western Electricity Coordinating Council (WECC) received the Certification of Completion and supporting evidence of Dynegy Inc. (DYN) on 10/5/2009 for the alleged violation of Reliability Standard PRC-005-1 Requirement 2.1.

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. No further mitigation of this requirement 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,



Laura Scholl
Managing Director of Compliance

LS:rh

cc: Dan Roethemeyer, DYN NERC Compliance Manager
Lisa Milanes, WECC Manager of Compliance Program Administration
Phil O'Donnell, WECC Senior Compliance Engineer

Attachment g

Notice of Filing

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Dynegy, Inc.

Docket No. NP10-____-000

NOTICE OF FILING
September 30, 2010

Take notice that on September 30, 2010, the North American Electric Reliability Corporation (NERC) filed a Notice of Penalty regarding Dynegy, Inc. 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