



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 Deficiency Notice of Penalty regarding Fox Energy Company LLC,
FERC Docket No. NP10-__-000**

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Deficiency Notice of Penalty (Deficiency NOP) regarding the Registered Entity listed in Attachment b,¹ 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)). Violations² addressed within a Deficiency NOP are administrative, minor or documentation in nature. Specifically, the violation is minor, the risk is low and there is a low assessed penalty.

The Settlement Agreement resolves all outstanding issues arising from ReliabilityFirst's determination and findings of the enforceable violation of CIP-001-1 R2. According to the Settlement Agreement, Fox Energy Company LLC (Fox Energy) neither admits nor denies the violation, but has agreed to the assessed penalty of four thousand dollars (\$4,000), 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.

¹ The Disposition Document addresses: (1) all relevant facts, in sufficient detail, to indicate the nature of the violation cited and its duration; (2) sufficient information on whether an entity did not perform the action required by the relevant Reliability Standard or failed to document that the action had been performed; (3) a linkage between specific facts and the penalty factors listed as relevant to the penalty determination; (4) specific information in a mitigation plan how a registered entity will comply with the requirements it has violated; and (5) specific information on how a Regional Entity verified that a registered entity timely completed a mitigation plan.

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.

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,³ the NERC BOTCC reviewed the Settlement Agreement and supporting documentation on July 12, 2010. The NERC BOTCC approved the Settlement Agreement, including ReliabilityFirst's assessment of a four thousand dollar (\$4,000) financial penalty against Fox Energy and other actions to facilitate future compliance required under the terms and conditions of the Settlement Agreement.

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) Settlement Agreement by and between ReliabilityFirst and Fox Energy executed May 21, 2010, included as Attachment a;
 - i. ReliabilityFirst's Summary of Possible Alleged Violation for CIP-001-1 R2 dated January 6, 2009, included as Attachment A to the Settlement Agreement;
 - ii. Fox Energy's Mitigation Plan MIT-07-2185 for CIP-001-1 R2 submitted November 20, 2009, included as Attachment B to the Settlement Agreement;
 - iii. Fox Energy's Certification of Mitigation Plan Completion for CIP-001-1 R2 dated December 21, 2009, included as Attachment C to the Settlement Agreement; and
 - iv. ReliabilityFirst's Verification of Mitigation Plan Completion for CIP-001-1 R2 dated January 5, 2010, included as Attachment D to the Settlement Agreement.
- b) Disposition Document dated July 12, 2010, included as Attachment b.

A Form of Notice Suitable for Publication⁴

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

³ *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).

⁴ 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>Daniel S. Walsh* Vice President Fox Energy Company LLC 800 Long Ridge Road Stamford, Connecticut 06927 (203) 357-4740 daniel.walsh@ge.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>Timothy R. Gallagher* President & CEO ReliabilityFirst Corporation 320 Springside Drive, Suite 300 Akron, Ohio 44333 (330) 456-2488 (330) 456-5390 – facsimile tim.gallagher@rfirst.org</p> <p>Raymond J. Palmieri* Vice President and Director of Compliance ReliabilityFirst Corporation 320 Springside Drive, Suite 300 Akron, Ohio 44333 (330) 456-2488 (330) 456-5408 – facsimile ray.palmieri@rfirst.org</p> <p>Robert K. Wargo* Manager of Compliance Enforcement ReliabilityFirst Corporation 320 Springside Drive, Suite 300 Akron, Ohio 44333 (330) 456-2488 (330) 456-5408 – facsimile bob.wargo@rfirst.org</p> |
|--|---|

Conclusion

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

Respectfully submitted,

Gerald W. Cauley
President and Chief Executive Officer
David N. Cook
Sr. Vice President and General Counsel
North American Electric Reliability Corporation
116-390 Village Boulevard
Princeton, NJ 08540-5721
(609) 452-8060
(609) 452-9550 – facsimile
gerry.cauley@nerc.net
david.cook@nerc.net

/s/ Rebecca J. Michael
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

cc: Fox Energy Company LLC
ReliabilityFirst Corporation

Attachments

Attachment a

Settlement Agreement by and between ReliabilityFirst and Fox Energy executed May 21, 2010



| | | |
|--------------------------------------|---|--------------------------------|
| In re: FOX ENERGY COMPANY LLC |) | Docket No. RFC200900178 |
| |) | |
| |) | NERC Reliability Standard: |
| |) | CIP-001-1, Requirement 2 |
| NERC Registry ID No. NCR08021 |) | |
| |) | |

**SETTLEMENT AGREEMENT
BETWEEN
RELIABILITYFIRST CORPORATION
AND
FOX ENERGY COMPANY LLC**

I. INTRODUCTION

1. ReliabilityFirst Corporation (“ReliabilityFirst”) and Fox Energy Company LLC (“Fox Energy”) enter into this Settlement Agreement (“Agreement”) to resolve all outstanding issues arising from a preliminary and non-public investigation resulting in ReliabilityFirst’s determination and findings, pursuant to the North American Electric Reliability Corporation (“NERC”) Rules of Procedure, of an alleged violation by Fox Energy of the NERC Reliability Standard CIP-001-1, Requirement 2.

II. STIPULATION OF FACTS

2. Fox Energy and ReliabilityFirst agree and stipulate to this Agreement in its entirety. The facts stipulated herein are stipulated solely for the purpose of resolving between Fox Energy and ReliabilityFirst the subject matter of this Agreement and do not constitute admissions or stipulations for any other purpose. Fox Energy neither admits nor denies that the facts stipulated herein constitute a violation of NERC Reliability Standard CIP-001-1, R2.

A. Background.

3. Fox Energy owns and operates a generation facility in Kaukauna, Wisconsin known as the Fox Energy Center. This facility consists of two combustion turbines, two heat recovery steam generators, one steam turbine, one cooling tower, and associated support equipment. The combined output of the facility is

549 megawatts (“MW”) at base load and 552 MW peak capacity. The primary fuel source for the Fox Energy Center is natural gas.

4. ReliabilityFirst confirmed that Fox Energy is registered on the NERC Compliance Registry as a Generator Operator in the ReliabilityFirst region with the NERC Registry Identification Number NCR08021 and is, therefore, subject to compliance with CIP-001-1, R2.

B. Alleged Violation of CIP-001-1, R2.

5. CIP-001-1, R2, states:

Each Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, and Load Serving Entity shall have procedures for the communication of information concerning sabotage events to all appropriate parties in the Interconnection.

6. In order to assess Fox Energy’s compliance with CIP-001-1, on January 6, 2009, ReliabilityFirst conducted a Spot Check on Fox Energy to assess Fox Energy’s compliance with CIP-001-1 as of November 12, 2008. *See*, Summary for Possible Alleged Violation (attached as **Attachment A**).
7. As part of the Spot Check, Fox Energy submitted the Fox Energy Center Facility Procedure Manual, Sabotage Reporting, WI 06.10 (the “Manual”). The Manual provided, *inter alia*, examples of incidents in which sabotage reporting would be necessary, including the deliberate destruction of or infliction of damage to communication systems, computer systems, equipment, facilities, and telecommunication systems.
8. Section 4.0 of the Manual listed personnel and organizations, such as the FBI and local police forces, that Fox Energy would contact in the event of sabotage. It did not, however, include the Reliability Coordinator, Transmission Owner, Transmission Operator, or Balancing Authority, which CIP-001-1 identifies as “appropriate parties in the Interconnection” that must be contacted in the event of sabotage. The Manual did, however, include sabotage reporting procedures for reporting such events to ReliabilityFirst, NERC, and the Department of Energy, all of which are also considered “appropriate parties in the Interconnection.”
9. Based on the revision history of the Manual, ReliabilityFirst determined that the Manual was not compliant to CIP-001-1, R2 since the time Fox Energy registered on the NERC Compliance Registry, June 27, 2007.
10. Given that Fox Energy failed to maintain a procedure for the communication of sabotage events to all appropriate parties in the Interconnection, Fox Energy failed to comply with CIP-001-1, R2.

III. RISK CONSIDERATIONS AND COMPLIANCE CULTURE

A. Risk Considerations for CIP-001-1, R2 – RFC200900178.

11. CIP-001-1, R2 has a Violation Risk Factor (“VRF”) of “Medium,” consistent with the VRF Matrix promulgated by NERC. The duration of this alleged violation, for purposes of penalty determination, is from June 27, 2007, the date on which Fox Energy registered on the NERC Compliance Registry, through November 30, 2009, the date that Fox Energy completed the Mitigation Plan (defined below). Pursuant to Section 316A(b) of the Federal Power Act (16 U.S.C. § 825o-1),¹ it is appropriate to apply this penalty on a daily basis for the duration of the violation.
12. ReliabilityFirst finds that the potential impact to the reliability of the BES was low because although Fox Energy did not have a formal, written procedure for notifying all appropriate parties in the Interconnection of a sabotage event, Fox Energy maintained a list in its control room with contact information for Fox Energy’s Transmission Operator, Balancing Authority, and Reliability Coordinator. Furthermore, pursuant to the Manual, Fox Energy would have contacted ReliabilityFirst and NERC in the event of a sabotage.

B. Fox Energy’s Culture of Compliance.

13. ReliabilityFirst commends certain aspects of Fox Energy’s compliance program. For example, the Fox Energy Compliance Officer has direct access to communicate compliance issues to the Fox Energy Chief Executive Officer and other senior leadership. Fox Energy also regularly reviews procedures relating to NERC Reliability Standards and trains employees on such procedures annually.

IV. MITIGATING ACTIONS, REMEDIES, AND SANCTIONS

A. Mitigating Actions for CIP-001-1, R2 – RFC200900178.

14. On November 20, 2009, Fox Energy submitted to ReliabilityFirst its mitigation plan (“Mitigation Plan”) to address the alleged violation set forth in this Agreement. *See*, NERC Mitigation Plan ID# MIT-07-2185, Fox Energy Mitigation Plan (attached as **Attachment B**). ReliabilityFirst accepted the Mitigation Plan on December 17, 2009, and submitted the accepted Mitigation Plan to NERC for approval on December 18, 2009. NERC approved the Mitigation Plan on December 21, 2009 and, on this same date, submitted the Mitigation Plan to the Federal Energy Regulatory Commission (the “Commission”) as confidential, non-public information.
15. On December 21, 2009, Fox Energy submitted to ReliabilityFirst a certification of completion of the Mitigation Plan, which stated that the Mitigation Plan was

¹ *See, also*, NERC Sanction Guidelines, at § 3.20 (attached as Appendix 4(B) to the NERC Rules of Procedure).

completed as of November 30, 2009. *See*, Certification of Mitigation Plan Completion (attached as **Attachment C**). On December 21, 2009, Fox Energy submitted to ReliabilityFirst evidence of its completion of the Mitigation Plan.

16. In the Mitigation Plan, Fox Energy outlines actions necessary to mitigate the alleged violation, some of which were already taken prior to Fox Energy's submittal of the Mitigation Plan.
17. Effective October 23, 2009, Fox Energy modified the Manual to include reporting sabotage events to the appropriate parties in the Interconnection, including Fox Energy's Transmission Operator, Balancing Authority, and Reliability Coordinator. Fox Energy also trained all of its personnel on the requirements contained in the modified Manual, by November 30, 2009.
18. ReliabilityFirst reviewed the evidence Fox Energy submitted in support of its certification of completion of the Mitigation Plan. ReliabilityFirst verified that all actions specified in the Mitigation Plan were successfully completed. On January 5, 2010, ReliabilityFirst verified that the Mitigation Plan was completed in accordance with its terms. *See*, Summary and Review of Evidence of Mitigation Plan Completion (attached as **Attachment D**).

B. Monetary Penalty.

19. Based upon the foregoing, Fox Energy shall pay a monetary penalty of \$4,000 to ReliabilityFirst.
20. ReliabilityFirst shall present a \$4,000 invoice to Fox Energy within 20 days after the Agreement is approved by the Commission or affirmed by operation of law. Upon receipt, Fox Energy shall have 30 days to remit payment.
21. If Fox Energy fails to timely remit the \$4,000 monetary penalty payment to ReliabilityFirst, interest will commence to accrue on the outstanding balance, pursuant to 18 C.F.R. § 35.19 (a)(2)(iii), on the earlier of (a) the 31st day after the date on the invoice issued by ReliabilityFirst to Fox Energy for the \$4,000 monetary penalty payment or (b) the 51st day after the Agreement is approved by the Commission or operation of law.
22. ReliabilityFirst may deem Fox Energy's failure to timely remit the \$4,000 penalty payment as either the same alleged violation identified in this Agreement or additional violation(s), or both, and, if so deemed, Fox Energy will be subject to new or additional enforcement actions in accordance with the NERC Rules of Procedure. Fox Energy shall retain all rights to defend against such new or additional actions in accordance with the NERC Rules of Procedure.

V. ADDITIONAL TERMS

23. ReliabilityFirst and Fox Energy agree that this Agreement is in the best interest of Bulk Electric System reliability.
24. The terms and conditions of the Agreement are consistent with the regulations and orders of the Commission and the NERC Rules of Procedure.
25. ReliabilityFirst shall report the terms of all settlements of compliance matters to NERC. NERC will review the Agreement for the purpose of evaluating its consistency with other settlements entered into for similar violations or under similar circumstances. Based on this review, NERC will either approve or reject this Agreement. If NERC rejects the Agreement, NERC will provide specific written reasons for such rejection and ReliabilityFirst will attempt to negotiate with Fox Energy a revised settlement agreement that addresses NERC's concerns. If a settlement cannot be reached, the enforcement process shall continue to conclusion. If NERC approves the Agreement, NERC will (a) report the approved settlement to the Commission for review and approval by order or operation of law and (b) publicly post the alleged violation and the terms provided for in this Agreement.
26. This Agreement shall become effective upon the Commission's approval of the Agreement by order or operation of law.
27. Fox Energy agrees that this Agreement, when approved by NERC and the Commission, shall represent a final settlement of all matters set forth herein and binds Fox Energy to perform the actions enumerated herein. Fox Energy expressly waives its right to any hearing or appeal concerning any matter set forth herein, unless and only to the extent that Fox Energy contends that any NERC or Commission action constitutes an unauthorized material modification to this Agreement.
28. ReliabilityFirst reserves all rights to initiate any action against Fox Energy in the event that Fox Energy fails to comply with any of the terms or conditions of this Agreement. In the event Fox Energy fails to comply with any of the terms or conditions of this Agreement, ReliabilityFirst may initiate an action or actions against Fox Energy to the maximum extent allowed by the NERC Rules of Procedure, including, but not limited to, the imposition of the maximum statutorily allowed monetary penalty. Fox Energy will retain all rights to defend against such action or actions.
29. Fox Energy consents to the future use of conclusions, determinations, and findings set forth in this Agreement for the purpose of assessing the factors within the NERC Sanction Guidelines and applicable Commission orders and policy statements, including, but not limited to, the factor evaluating Fox Energy's history of violations. Such use may be in any enforcement action or compliance


proceeding undertaken by NERC or any Regional Entity or both, provided however that Fox Energy does not consent to the use of the conclusions, determinations, and findings set forth in this Agreement as the sole basis for any other action or proceeding brought by NERC or any Regional Entity or both, nor does Fox Energy consent to the use of this Agreement by any other party in any other action or proceeding.

30. Fox Energy affirms that all of the matters set forth in this Agreement are true and correct to the best of its knowledge, information, and belief, and that it understands that ReliabilityFirst enters into this Agreement in express reliance on the representations contained herein, as well as any other representations or information provided by Fox Energy to ReliabilityFirst during any Fox Energy interaction with ReliabilityFirst relating to the subject matter of this Agreement.
31. Each of the undersigned warrants that he or she is an authorized representative of the entity designated below, is authorized to bind such entity, and accepts the Agreement on the entity's behalf.
32. The signatories to this Agreement agree that they enter into this Agreement voluntarily and that, other than the recitations set forth herein, no tender, offer, or promise of any kind by any member, employee, officer, director, agent, or representative of ReliabilityFirst or Fox Energy has been made to induce the signatories or any other party to enter into this Agreement.
33. The Agreement may be signed in counterparts.
34. This Agreement is executed in duplicate, each of which so executed shall be deemed to be an original.


[SIGNATURE PAGE TO FOLLOW]

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Agreed to and accepted:



Raymond J. Palmieri
Vice President and Director of Compliance
ReliabilityFirst Corporation

5/21/10
Date


Daniel S. Walsh
Vice President
Fox Energy Company LLC

5-21-2010
Date

Approved:


Timothy R. Gallagher
President & Chief Executive Officer
ReliabilityFirst Corporation

5-21-10
Date

Attachment A

Summary for Possible Alleged Violation



Summary for Possible Alleged Violation (PV)

Registered Entity: Fox Energy Company LLC

NERC ID#: NCR08021

Compliance Monitoring Process: Spot Checking

Standard and Requirement: CIP-001-1, R2

Registered Function(s) in Violation: [GOP](#)

Initial PV Date: [1/6/2009](#)

Date for Determination of Penalty/Sanction: 9/25/2008

Violation Risk Factor: VRF - Medium

Violation Severity Level: [VSL - Level 1](#)

Violation Reported By: [Audit Team Lead](#)

Basis for the PV: Evidence does not include a procedure for the communication of information concerning sabotage events to appropriate parties in the Interconnection.

Facts and Evidence pertaining to the PV: Fox Energy Center Facility Procedure Manual, Sabotage Reporting, WI 06.10 provides examples of sabotage incidents. Section 4.0 lists and describes personnel/organizations to be contacted, but does not include RC, TOP, TO, BA, etc. Reporting of incident to RFC, NERC, DOE and GE is addressed.

Impact to Bulk Electrical System (BES): Moderate

- **Provide Explanation for Impact to BES:** Since the appropriate parties in the Interconnection will be unaware of a sabotage event at the Fox Energy Center, proper notification to other generating facilities will not be possible.

Attachment B

Mitigation Plan (MIT-07-2185)

Submitted November 20, 2009

MIT-07-2185



RFC200900178

Mitigation Plan Submittal Form

Date this Mitigation Plan is being submitted: November 20, 2009

Section A: Compliance Notices & Mitigation Plan Requirements

- A.1 Notices and requirements applicable to Mitigation Plans and this Submittal Form are set forth in "Attachment A - Compliance Notices & Mitigation Plan Requirements."
- A.2 This form must be used to submit required Mitigation Plans for review and acceptance by ReliabilityFirst and approval by NERC.
- A.3 ☒ I have reviewed Attachment A and understand that this Mitigation Plan Submittal Form will not be accepted unless this box is checked.

Section B: Registered Entity Information

- B.1 Identify your organization.

Company Name: Fox Energy Company, LLC

Company Address: 800 Long Ridge Road, Stamford, CT

NERC Compliance Registry ID: NCR08021

- B.2 Identify the individual in your organization who will be the Entity Contact regarding this Mitigation Plan.

Name: Daniel Walsh

Title: Vice President

Email: daniel.walsh@ge.com

Phone: 203-357-4740



**Section C: Identification of Alleged or Confirmed Violation(s)
Associated with this Mitigation Plan**

C.1 This Mitigation Plan is associated with the following Alleged or Confirmed violation(s) of the reliability standard listed below.

| NERC Violation ID # | Reliability Standard | Requirement Number | Violation Risk Factor | Alleged or Confirmed Violation Date ^(*) | Method of Detection (e.g., Audit, Self-report, Investigation) |
|---------------------|----------------------|--------------------|-----------------------|--|---|
| RFC200900178 | CIP-001-1 | 2 | Medium | February 18, 2009 | Spot Check |
| | | | | | |
| | | | | | |
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(*) Note: The Alleged or Confirmed Violation Date shall be expressly specified by the Registered Entity, and subject to modification by ReliabilityFirst, as: (i) the date the Alleged or Confirmed violation occurred; (ii) the date that the Alleged or Confirmed violation was self-reported; or (iii) the date that the Alleged or Confirmed violation has been deemed to have occurred on by ReliabilityFirst. Questions regarding the date to use should be directed to the ReliabilityFirst contact identified in Section G of this form.

C.2 Identify the cause of the Alleged or Confirmed violation(s) identified above. Additional detailed information may be provided as an attachment.

As a result of information provided in response to a spot check initiated in December 2008, ReliabilityFirst Corporation determined that Fox Energy Company, LLC ("Fox") may not be in compliance with Requirement 2 of CIP-001-1. The evidence submitted by Fox did not include communication of sabotage events to appropriate parties in the Interconnection.

Note: If a formal root cause analysis evaluation was performed, submit a copy of the summary report.

C.3 Provide any additional relevant information regarding the Alleged or Confirmed violations associated with this Mitigation Plan. Additional detailed information may be provided as an attachment.

The version of the Fox sabotage reporting procedure that was in place at the time of the spot check did not explicitly reference communication of sabotage events to appropriate parties in the Interconnection; however, the plant operators and management had access to the appropriate Interconnection entity contact information via a phone list that is contained in the plant control room.

RELIABILITY FIRST

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 Alleged or Confirmed violations identified above in Part C.1 of this form. Additional detailed information may be provided as an attachment.

Fox's sabotage reporting procedure (Sabotage Reporting, WI CIP-001-1) was modified to include American Transmission Company, LLC (TOP), Midwest ISO (BA, RC), and WE Energies (Backup/Local BA) as part of the communication process. Additionally, the site Emergency Action Plan Section 4.2.7.6 (Sabotage or Civil Disturbance) was modified to include instructions to notify appropriate parties in the Interconnection (TOP, BA, RC).

Mitigation Plan Timeline and Milestones

- D.2 Provide the date by which full implementation of the Mitigation Plan will be, or has been, completed with respect to the Alleged or Confirmed violations identified above. State whether the Mitigation Plan has been fully implemented, and/or whether the actions necessary to assure the entity has returned to full compliance have been completed.

WI CIP-001-1 Sabotage Reporting was modified on October 23, 2009. The site Emergency Action Plan was modified November 16, 2009. Training of plant personnel on new procedures is ongoing and will be completed by November 30, 2009

- D.3 Enter Key Milestone Activities (with due dates) that can be used to track and indicate progress towards timely and successful completion of this Mitigation Plan.

| Key Milestone Activity | Proposed/Actual Completion Date* (shall not be more than 3 months apart) |
|---|---|
| WI CIP-001-1 modified to include TOP, BA, and RC as part of the communication process | Completed on October 23, 2009 |

RELIABILITY FIRST

| | |
|---|--|
| Fox's Emergency Action Plan modified to include instructions to notify TOP, BA, and RC for sabotage events. | Completed on November 16, 2009 |
| Personnel training on new procedures. | Proposed completion by November 30, 2009 |
| | |

(*) Note: Additional violations could be determined for not completing work associated with accepted milestones.



Section E: Interim and Future Reliability Risk

Abatement of Interim BPS Reliability Risk

- E.1 While your organization is implementing this Mitigation Plan the reliability of the Bulk Power System (BPS) 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 to mitigate this increased risk to the reliability of the BPS. Additional detailed information may be provided as an attachment.

Fox's sabotage reporting procedure (Sabotage Reporting, WI CIP-001-1) was modified to include American Transmission Company, LLC (TOP), Midwest ISO (BA, RC), and WE Energies (Backup/Local BA) as part of the communication process.

Section 4.2.7.6 (Sabotage or Civil Disturbance) of the site Emergency Action Plan was also modified to include instructions to notify appropriate parties in the Interconnection (TOP, BA, RC).

Prevention of Future BPS Reliability Risk

- E.2 Describe how successful completion of this Mitigation Plan by your organization will prevent or minimize the probability that the reliability of the BPS incurs further risk of similar violations in the future. Additional detailed information may be provided as an attachment.

Use of the modified WI CIP-001-1 Sabotage Reporting procedure will now require operators to contact the TOP, BA, and RC when alerted to any suspicious activity as described in the procedure.

Additionally, operators will use the modified Section 4.2.7.6 of the site Emergency Action Plan to coordinate communication with appropriate parties in the Interconnection.

RELIABILITY FIRST

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 this Mitigation Plan for acceptance by ReliabilityFirst and approval by NERC, and
- b) If applicable, certifies that this Mitigation Plan was completed on or before the date provided as the 'Date of Completion of the Mitigation Plan' on this form, and
- c) Acknowledges:
 1. I am an Authorized Signatory of Fox Energy Company, LLC.
 2. I am qualified to sign this Mitigation Plan on behalf of Fox Energy Company, LLC.
 3. I have read and am familiar with the contents of this Mitigation Plan.
 4. Fox Energy Company, LLC agrees to comply with, this Mitigation Plan, including the timetable completion date, as accepted by ReliabilityFirst and approved by NERC.

Authorized Individual Signature



Name (Print): Daniel S. Walsh
Title: Vice President
Date: November 20, 2009

Section G: Regional Entity Contact

Please direct completed forms or any questions regarding completion of this form to the ReliabilityFirst Compliance e-mail address mitigationplan@rfirst.org.

Please indicate the company name and reference the NERC Violation ID # (if known) in the subject line of the e-mail. Additionally, any ReliabilityFirst Compliance Staff member is available for questions regarding the use of this form. Please see the contact list posted on the ReliabilityFirst Compliance web page.

Attachment C

Certification of Mitigation Plan Completion

Submitted December 21, 2009



Certification of Mitigation Plan Completion

Submittal of a Certification of Mitigation Plan Completion shall include data or information sufficient for ReliabilityFirst Corporation to verify completion of the Mitigation Plan. ReliabilityFirst Corporation 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 Name: Fox Energy Company, LLC

NERC Registry ID:NCR08021

Date of Submittal of Certification:December 21, 2009

NERC Violation ID No(s):RFC200900178

Reliability Standard and the Requirement(s) of which a violation was mitigated:CIP-001-1 R2

Date Mitigation Plan was scheduled to be completed per accepted Mitigation Plan:November 30, 2009

Date Mitigation Plan was actually completed:November 30, 2009

Additional Comments (or List of Documents Attached):1) Copy of WI CIP-001-1 (Sabotage Reporting Plan); 2) Copy of WI 14.2.4 (Emergency Action Plan); 3) Copy of sign-in sheet for training on new sabotage reorting procedure

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:Joseph C. Beal

Title:Compliance Manager

Email:joseph.beal@ge.com

Phone:203-357-6167

Authorized Signature 

DateDec 21, 2009



Please direct completed forms or any questions regarding completion of this form to the ReliabilityFirst Compliance e-mail address mitigationplan@rfirst.org.

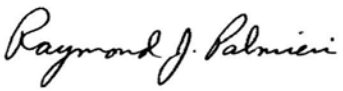
Please indicate the company name and reference the NERC Violation ID # (if known) in the subject line of the e-mail. Additionally, any ReliabilityFirst Compliance Staff member is available for questions regarding the use of this form. Please see the contact list posted on the ReliabilityFirst Compliance web page.



DOCUMENT CONTROL

Title: Certification of Mitigation Plan Completion
Issue: Version 1
Date: 5 January 2008
Distribution: Public
Filename: Certification of a Completed Mitigation Plan_Ver1.doc
Control: Reissue as complete document only

DOCUMENT APPROVAL

| Prepared By | Approved By | Approval Signature | Date |
|--|---|--|----------|
| Robert K. Wargo Manager of Compliance Enforcement | Raymond J. Palmieri Vice President and Director Compliance |  | 1/5/2009 |

DOCUMENT CHANGE/REVISION HISTORY

| Version | Prepared By | Summary of Changes | Date |
|---------|-----------------|--------------------|----------|
| 1.0 | Robert K. Wargo | Original Issue | 1/5/2009 |
| | | | |
| | | | |
| | | | |
| | | | |

Attachment D

Summary and Review of Mitigation Plan Completion

Dated January 5, 2010

January 5, 2010

Summary and Review of Evidence of Mitigation Plan Completion

| | |
|-----------------------------|--------------------------------|
| NERC Violation ID #: | RFC20000178 |
| NERC Plan ID: | MIT-07-2185 |
| Registered Entity; | Fox Energy Company, LLC |
| NERC Registry ID: | NCR08021 |
| Standard: | CIP-001-1 |
| Requirement: | 2 |
| Status: | Compliant |

Fox Energy Company, LLC ("Fox Energy") was Spot Checked by Reliability *First* Compliance Staff on January 6, 2009, at which time a Possible Violation of CIP-001-1, Requirement 2 was identified. Fox Energy submitted a Proposed Mitigation Plan to Reliability *First* on November 20, 2009, whereby stating Fox Energy would complete all mitigating actions on November 30, 2009. This Mitigation Plan, designated MIT-07-2185, was accepted by Reliability *First* on December 17, 2009 and approved by NERC on December 21, 2009.

Review Process:

On December 21, 2009, Fox Energy certified that Mitigation Plan for CIP-001-1, Requirement 2, was completed as of November 30, 2009. Reliability *First* requested and received evidence of completion for actions taken by Fox Energy as specified in the Mitigation Plan. Reliability *First* performed an in depth review of the information provided to verify that all actions specified in the Mitigation Plan were successfully completed.

CIP-001-1, Requirement 2 states: "Each Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, and Load Serving Entity shall have procedures for the communication of information concerning sabotage events to appropriate parties in the Interconnection."

Evidence Submitted:

Requirement 2: Fox Energy submitted a revised "Fox Energy Center, Facility Procedures Manual Work Instruction WI CIP-001-1 Sabotage Reporting Plan, Revision 3, October 23, 2009," which now includes reporting of sabotage events to the appropriate parties in the Interconnection which are MISO and ATC. This action mitigates the violation. Fox Energy also submitted an updated "Fox Energy Center, Facility Work Instruction WI 14.2.4 Emergency Action Plan, Revision 3, November 19, 2009," which references the Sabotage Reporting Plan to notify MISO and ATC. Fox Energy submitted a third document which is the Sign In Sheet proving that their personnel were trained on the updated Sabotage Reporting Plan on November 23, 2009 and November 30, 2009.

Summary and Review of Mitigation Plan Completion
Fox Energy Company, LLC
January 5, 2010
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Review Results:

ReliabilityFirst Corporation reviewed the evidence the Fox Energy submitted in support of its Certification of Completion. On January 5, 2010 ReliabilityFirst verified that the Mitigation Plan was completed in accordance with its terms and has therefore deemed Fox Energy compliant to the aforementioned NERC Reliability Standard.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Robert K. Wargo", written in a cursive style.

Robert
Manager
Reliability

K. Wargo
of Compliance Enforcement
First Corporation

Attachment b

Disposition Document dated July 12, 2010

DISPOSITION OF VIOLATION¹

Dated July 12, 2010

NERC TRACKING
NO.**RFC200900178**REGIONAL ENTITY TRACKING
NO.**RFC200900178**

NOC#

NOC-565

REGISTERED ENTITY

Fox Energy Company LLC (Fox Energy)

NERC REGISTRY ID

NCR08021

REGIONAL ENTITY

ReliabilityFirst Corporation (ReliabilityFirst)**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 | | | | | | | | | | | |
| | | 6/27/07 | 6/27/07 | | | | | | | | | | | |

* VIOLATION APPLIES TO SHADED FUNCTIONS

DESCRIPTION OF THE REGISTERED ENTITY

Fox Energy owns and operates a generation facility in Kaukauna, Wisconsin known as the Fox Energy Center. This facility consists of two combustion turbines, two heat recovery steam generators, one steam turbine, one cooling tower, and associated support equipment. The combined output of the facility is 549 MW at base load and 552 MW peak capacity. The primary fuel source for the Fox Energy Center is natural gas.

II. VIOLATION INFORMATION

| RELIABILITY STANDARD | REQUIREMENT(S) | SUB- REQUIREMENT(S) | VRF(S) | VSL(S) |
|-------------------------|----------------|------------------------|---------------|-------------|
| CIP-001-1 | R2 | N/A | Medium | High |

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

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.

The purpose statement of CIP-001-1 provides: “Disturbances or unusual occurrences, suspected or determined to be caused by sabotage, shall be reported to the appropriate systems, governmental agencies, and regulatory bodies.”

CIP-001-1 R2 provides: “Each Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, and Load Serving Entity shall have procedures for the communication of information concerning sabotage events to appropriate parties in the Interconnection.”

VIOLATION DESCRIPTION

On January 6, 2009, ReliabilityFirst conducted a Spot Check on Fox Energy to assess Fox Energy’s compliance with CIP-001-1 as of November 12, 2008. As part of the Spot Check, Fox Energy submitted the Fox Energy Center Facility Procedure Manual, *Sabotage Reporting, WI 06.10 (Manual)*. The Manual provided examples of incidents in which sabotage reporting would be necessary, including the deliberate destruction of or infliction of damage to communication systems, computer systems, equipment, facilities, and telecommunication systems.

Section 4.0 of the Manual listed personnel and organizations, such as the FBI and local police authorities, which Fox Energy would contact in the event of sabotage. In addition, the Manual included sabotage reporting procedures for reporting such events to ReliabilityFirst, NERC, and the Department of Energy. The Manual did not, however, include the Reliability Coordinator, Transmission Owner, Transmission Operator, or Balancing Authority which CIP-001-1 identifies as “appropriate parties in the Interconnection” that must be contacted in the event of sabotage. Therefore, ReliabilityFirst alleges that Fox Energy failed to maintain a procedure for the communication of sabotage events to all appropriate parties in the Interconnection.

RELIABILITY IMPACT STATEMENT- POTENTIAL AND ACTUAL

ReliabilityFirst determined that the violation did not pose a serious or substantial risk to the bulk power system because although Fox Energy’s written procedure did not include a procedure for notifying all appropriate parties in the Interconnection of a sabotage event, Fox Energy maintained a list in its control room with contact information for Fox Energy’s Transmission Operator, Balancing Authority, and Reliability Coordinator. Furthermore, pursuant to the Manual, Fox Energy would have contacted ReliabilityFirst and NERC in the event of sabotage.

IS THERE A SETTLEMENT AGREEMENT YES ☒ NO ☐

WITH RESPECT TO THE VIOLATION(S), REGISTERED ENTITY

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

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

DURATION DATE(S) **6/27/2007, the date Fox Energy was place on the NERC registry, through 11/30/2009 when Fox Energy completed its Mitigation Plan.**

DATE DISCOVERED BY OR REPORTED TO REGIONAL ENTITY **1/6/2009**

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-07-2185**

DATE SUBMITTED TO REGIONAL ENTITY **11/20/2009**

DATE ACCEPTED BY REGIONAL ENTITY **12/17/2009**

DATE APPROVED BY NERC **12/21/2009**

DATE PROVIDED TO FERC **12/21/2009**

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

MITIGATION PLAN COMPLETED YES ☒ NO ☐

EXPECTED COMPLETION DATE **11/30/2009**

EXTENSIONS GRANTED **N/A**

ACTUAL COMPLETION DATE **11/30/2009**

DATE OF CERTIFICATION LETTER **12/21/2009**

CERTIFIED COMPLETE BY REGISTERED ENTITY AS OF **11/30/2009**

DATE OF VERIFICATION LETTER **1/5/2010**

VERIFIED COMPLETE BY REGIONAL ENTITY AS OF **11/30/2009**

ACTIONS TAKEN TO MITIGATE THE ISSUE AND PREVENT RECURRENCE

Fox Energy (1) modified the Manual to include reporting sabotage events to the appropriate parties in the Interconnection, including Fox Energy's Transmission Operator, Balancing Authority, and Reliability Coordinator; and (2) trained all of its personnel on the requirements contained in the modified Manual.

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)

ReliabilityFirst analyzed the following evidence to confirm Fox Energy's completion of its Mitigation Plan:

- 1. *Fox Energy Center, Facility Procedures Manual Work Instruction WI CIP-001-1 Sabotage Reporting Plan, Revision 3, October 23, 2009.* This document now includes reporting of sabotage events to the appropriate parties in the Interconnection.**
- 2. *Fox Energy Center, Facility Work Instruction WI 14.2.4 Emergency Action Plan, Revision 3, November 19, 2009.* This document references the Sabotage Reporting Plan to notify the appropriate parties in the Interconnection.**
- 3. *Sign In Sheet.* This document proves that Fox Energy personnel were trained on the updated Sabotage Reporting Plan on November 23, 2009 and November 30, 2009.**

V. PENALTY INFORMATION

TOTAL ASSESSED PENALTY OR SANCTION OF **\$4,000** 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 PROGRAM²
YES ☒ NO ☐
EXPLAIN

² This Notice of Penalty was done prior to the Commission's August 27, 2010 Guidance Order being issued. ReliabilityFirst determined that there was nothing in the record to suggest that broad compliance issues are implicated.

ReliabilityFirst commends certain aspects of Fox Energy's compliance program and considered these aspects to be mitigating factors. For example, the Fox Energy Compliance Officer has direct access to communicate compliance issues to the Fox Energy Chief Executive Officer and other senior leadership. Fox Energy also regularly reviews procedures relating to NERC Reliability Standards and trains employees on such procedures annually.

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

ReliabilityFirst's Summary for Possible Alleged Violation dated January 6, 2009

MITIGATION PLAN

Fox Energy's Mitigation Plan submitted November 20, 2009

CERTIFICATION BY REGISTERED ENTITY

Fox Energy's Certification of Mitigation Plan Completion dated December 21, 2009

OTHER RELEVANT INFORMATION:

NOTICE OF ALLEGED VIOLATION AND PROPOSED PENALTY OR
SANCTION ISSUED

DATE: 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 c

Notice of Filing

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Fox Energy Company LLC

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 Fox Energy Company LLC in the Reliability *First* Corporation 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