



NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

March 31, 2009

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

Re: NERC Notice of Penalty regarding FPL Energy, LLC,¹ FERC Docket No. NP09-_-000

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Notice of Penalty² regarding FPL Energy, LLC (now known as NextEra Energy Resources, LLC), NERC Registry ID NCR01243,³ 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)).⁴

This Notice of Penalty is being filed with the Commission because, based on information from SERC Reliability Corporation (SERC), FPL Energy, LLC has agreed to the proposed penalty of \$250,000 to be assessed to FPL Energy, LLC with respect to the alleged violations of PRC-005-1 Requirement (R) 1 and R2 and CIP-001-1 R1 and R2, in addition to other remedies which include mitigation actions and actions to prevent recurrence under the terms and conditions of the Settlement Agreement, at issue in this Notice of Penalty. SERC and FPL Energy, LLC have entered into the Settlement Agreement to resolve all outstanding issues arising from a preliminary and non-public assessment resulting in SERC determination and findings of the enforceable alleged violations at issue in this Notice of Penalty. Accordingly, the alleged violations identified as NERC Violation Tracking Identification Numbers SERC200810005, SERC200810006, SERC200810007 and SERC200810008 are being filed in accordance with the NERC Rules of Procedure and the CMEP.

¹ FPL Energy, LLC changed its name to NextEra Energy Resources, LLC.

² *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards* (Order No. 672), III FERC Stats. & Regs. ¶ 31,204 (2006); *Notice of New Docket Prefix "NP" for Notices of Penalty Filed by the North American Electric Reliability Corporation*, Docket No. RM05-30-000 (February 7, 2008). See also 18 C.F.R. Part 39 (2008). *Mandatory Reliability Standards for the Bulk-Power System*, FERC Stats. & Regs. ¶ 31,242 (2007) (Order No. 693), *reh'g denied*, 120 FERC ¶ 61,053 (2007) (Order No. 693-A). See 18 C.F.R. § 39.7(c)(2).

³ SERC Reliability Corporation confirmed that FPL Energy, LLC was included on the NERC Compliance Registry as a Generator Operator on June 28, 2007 and a Generator Owner on May 31, 2007 was subject to the requirements of NERC Reliability Standard CIP-001-1 and PRC-005-1, respectively.

⁴ See 18 C.F.R. § 39.7(c)(2).

Statement of Findings Underlying the Alleged Violations

This Notice of Penalty incorporates the findings and justifications set forth in the Settlement Agreement executed October 3, 2008 and September 25, 2008, by and between SERC and FPL Energy, LLC, which is included as Attachment a. The details of the findings and basis for the penalty are set forth in the Settlement Agreement and herein. This Notice of Penalty filing contains the basis for approval of the Settlement Agreement by the NERC Board of Trustees Compliance Committee (NERC BOTCC). In accordance with Section 39.7 of the Commission's regulations, 18 C.F.R. § 39.7 (2007), NERC provides the following summary table identifying each alleged 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 (\$)
SERC	FPL Energy, LLC	NOC-114	SERC200810005	PRC-005-1	1	High	250,000
SERC	FPL Energy, LLC	NOC-114	SERC200810006	PRC-005-1	2	High/Lower ⁵	
SERC	FPL Energy, LLC	NOC-114	SERC200810007	CIP-001-1	1	Medium	
SERC	FPL Energy, LLC	NOC-114	SERC200810008	CIP-001-1	2	Medium	

PRC-005-1 R1 requires an entity such as FPL Energy, LLC that owns a generation Protection System to have a Protection System maintenance and testing program for Protection Systems that affect the reliability of the bulk electric system. The program shall include: maintenance and testing intervals and their basis, and a summary of maintenance and testing procedures.

PRC-005-1 R2 requires an entity such as FPL Energy, LLC that owns a generation Protection System to 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 shall include: evidence the Protection System devices were maintained and tested within the defined intervals, and the date each Protection System device was last tested/maintained.

CIP-001-1 R1 requires an entity such as FPL Energy, LLC to have procedures for the recognition of and for making their operating personnel aware of sabotage events on its facilities and multi-site sabotage affecting larger portions of the Interconnect.

CIP-001-1 R2 requires an entity such as FPL Energy, LLC to have procedures for communication of information concerning sabotage events to appropriate parties in the Interconnect.

According to the Settlement Agreement, FPL Energy, LLC self-reported possible violations of thirteen Reliability Standards, including Reliability Standards CIP-001-1 R1, R2, R3 and R4 and

⁵ SERC assessed a High VRF for this alleged violation, because the each of the sub-requirements of PRC-005-1 has a High VRF, but the main requirement of PRC-005-1 has a Lower VRF.

PRC-005-1 R2 on June 1, 2007.⁶ The self-reports were submitted prior to the mandatory and enforceable date of the Reliability Standards at issue, which was June 18, 2007, and therefore were originally pre-June 18th violations. During SERC Compliance Staff's data gathering and analysis process, it was determined that FPL Energy, LLC was being conservative with the self-report and the majority of the violations were dismissed; however, SERC Compliance Staff did find sufficient evidence that FPL Energy, LLC was non-compliant with CIP-001-1 R1, R2, R3 and R4 and PRC-005-1 R2.

According to the Settlement Agreement, FPL Energy, LLC received a Notice of Alleged Violation and Proposed Penalty or Sanction (NAVAPS) on August 27, 2007 and a Notice of Confirmed Violation and Proposed Penalty or Sanction (NOCV) on November 7, 2007. On June 21, 2007, FPL Energy, LLC submitted a Mitigation Plan, MP-2007-001795, for the Requirements of Reliability Standard CIP-001-1 and submitted a Mitigation Plan, MP-2007-001794, on June 21, 2007 for Requirement 2 of Reliability Standard PRC-005-1, which were later accepted by SERC on August 9, 2007, approved by NERC and submitted to FERC on November 8, 2007. When FPL Energy, LLC certified on September 24, 2007 that the Mitigation Plans for CIP-001-1 and PRC-005-1, R2 were completed on September 21, 2007, FPL Energy, LLC did not submit any evidence of completion to SERC.

After several requests by SERC over the next few months, FPL Energy, LLC finally submitted evidence of completion of the Mitigation Plans. However, when SERC Compliance Staff reviewed the evidence through an audit conducted on February 11-13, 2008, it was determined that the evidence was lacking to support compliance with CIP-001-1 R1, R2 and R4, thereby resulting in post-June 18th alleged violations. SERC Compliance Staff found that the evidence did support compliance with CIP-001-1 R3 since June 18, 2007. The SERC Audit team determined that the evidence submitted for PRC-005-1 R2 was insufficient because it lacked documentation of maintenance and testing for certain components including batteries, DC control circuits, and voltage and current sensing devices, thereby resulting in a post-June 18th alleged violation. Additionally, during the audit, the SERC Audit team identified the possible violation of PRC-005-1 R1, which had not been previously self-reported. The evidence submitted was deficient in that FPL Energy, LLC's Protection Systems maintenance and testing procedure did not list the necessary components of the Protection Systems, resulting in a new post-June 18th alleged violation.

Based on the SERC Audit team's findings at the February 11-13, 2008 compliance audit, SERC Compliance Staff initiated new post-June 18th compliance enforcement actions against FPL Energy, LLC. On May 5, 2008, SERC issued to FPL Energy, LLC a NAVAPS citing violations of Requirements R1 and R2 of PRC-005-1 and Requirements R1, R2 and R4⁷ of CIP-001-1. On May 8, 2008, immediately following the issuance of the NAVAPS, FPL Energy, LLC requested

⁶ The August 27, 2007 NAVAPS indicated two separate dates for the "Date Alleged Violation Occurred or was Discovered" as June 1, 2007 for PRC-005-1 and June 9, 2007 for CIP-001-1.

⁷ Based on evidence related to CIP-001-1 R4 (NERC Violation Tracking Identification Number SERC200800009) reviewed during and after the April 3, 2008 follow-up site visit, the submission by FPL Energy, LLC of an affidavit on April 17, 2008 affirming communications with local FBI office, and the revised guidance on CIP-001-1 R4 issued by NERC on June 3, 2008, SERC Compliance Staff determined to dismiss the alleged violation of CIP-001-1 R4 during settlement discussions.

initiation of settlement discussions. Since then FPL Energy, LLC has demonstrated its commitment to remedy these issues and has worked closely with SERC Compliance Staff in developing its Mitigation Plans and restoring compliance with the Reliability Standards.

For PRC-005-1 R1, it was determined by SERC that FPL Energy, LLC's maintenance and testing procedures did not include a description of the program, nor did the procedures include testing intervals and their bases, for all components of generation Protection Systems required by the Reliability Standard.

For PRC-005-1 R2, it was determined by SERC that FPL Energy, LLC was unable to produce evidence that all components of generation Protection Systems had been tested within a defined interval. This violation supersedes the alleged violation by FPL Energy, LLC cited in the August 27, 2007 NAVAPS, because FPL Energy, LLC failed to remedy the violation in accordance with the Mitigation Plan. The Mitigation Plan was certified by FPL Energy, LLC on September 24, 2007 as being completed on September 21, 2007; however, FPL Energy, LLC did not submit any accompanying evidence, as required by SERC, to allow SERC to verify completion.

For CIP-001-1 R1, it was determined by SERC that FPL Energy, LLC's sabotage response program lacked procedures for identifying sabotage and for making its operating personnel aware of sabotage events on its facilities and multi-site sabotage affecting larger portions of the Interconnection. This violation supersedes the alleged violation by FPL Energy, LLC cited in the August 27, 2007 NAVAPS, because FPL Energy, LLC failed to remedy the violation in accordance with the Mitigation Plan. The Mitigation Plan was certified by FPL Energy, LLC on September 24, 2007 as being completed on September 21, 2007; however, FPL Energy, LLC did not submit any accompanying evidence, as required by SERC, to allow SERC to verify completion. Subsequently, at SERC's request and as discussed in greater detail below, FPL Energy, LLC provided evidence in support of its certification of completion.

For CIP-001-1 R2, it was determined by SERC that FPL Energy, LLC's sabotage response program lacked procedures for the communication of information concerning sabotage events to appropriate parties in the Interconnection. This violation supersedes the alleged violation by FPL Energy, LLC cited in the August 27, 2007 NAVAPS, because FPL Energy, LLC failed to remedy the violation in accordance with the Mitigation Plan. The Mitigation Plan was certified by FPL Energy, LLC on September 24, 2007 as being completed on September 21, 2007; however, FPL Energy, LLC did not submit any accompanying evidence, as required by SERC, to allow SERC to verify completion. Subsequently, at SERC's request and as discussed in greater detail below, FPL Energy, LLC provided evidence in support of its certification of completion.

For CIP-001-1 R4, during the course of settlement discussions, based upon evidence submitted by FPL Energy, LLC during the April 3, 2008 follow-up site visit, and the submission by FPL Energy, LLC of an affidavit on April 17, 2008 affirming communications with the local FBI office, along with the guidance issued by NERC on June 3, 2008, with respect to CIP-001-1 R4,⁸

⁸ CIP-001-1 R4 requires an entity such as FPL Energy, LLC to establish communications contacts, as applicable, with local Federal Bureau of Investigation (FBI) or Royal Canadian Mounted Police (RCMP) officials and develop

SERC Compliance Enforcement Staff determined to dismiss the alleged violation of CIP-001-1 R4.

SERC assessed the alleged violations of CIP-001-1 R1 and R2 to have “Medium” Violation Risk Factors (VRFs). SERC assessed the alleged violations of PRC-005-1 R1 and R2 to have “High” VRFs. While PRC-005-1 R2 has a “Lower” VRF, its sub-requirements have a “High” VRF. Therefore, SERC Reliability Corporation assessed a “High” VRF on the PRC-005-1 R2 violation.

According to the Settlement Agreement, SERC’s Compliance Enforcement Staff concluded that FPL Energy, LLC’s insufficiently documented protection system maintenance and testing program and sabotage reporting program represented a low actual and foreseen risk to bulk power system reliability. Thus, according to SERC, its Compliance Enforcement Staff determined that, in this instance, the single, aggregate penalty amount of \$250,000 bears a reasonable relation to the seriousness and duration of the alleged violations and takes into consideration FPL Energy, LLC’s voluntary efforts to remedy the alleged violations in a timely manner. Furthermore, based on FPL Energy, LLC’s cooperation, commitment to compliance and agreement to expeditiously reconcile this issue via settlement, SERC determined that the penalty of \$250,000 was appropriate.

Status of Mitigation Plan⁹

FPL Energy, LLC’s Mitigation Plan to address CIP-001-1 R3 was submitted on June 21, 2007 and accepted by SERC on August 9, 2007 and approved by NERC on November 8, 2007.¹⁰ The Mitigation Plan for this violation is designated as MP-2007-001795 and was submitted as non-public information to FERC on November 8, 2007 in accordance with FERC orders. FPL Energy, LLC certified on September 24, 2007 to SERC that its Mitigation Plan was complete on September 21, 2007. After several months of requested documentation to support closure of the Mitigation Plan, FPL Energy, LLC finally submitted evidence to SERC on February 7, 2008 and during SERC’s compliance audit of FPL Energy, LLC conducted on February 11-13, 2008. The evidence submitted on February 7, 2008 and reviewed during the compliance audit consisted of FPL Energy, LLC’s Asset Protection Policy dated May 21, 2003 and FPL Energy, LLC’s Threat Alert/Response Actions Memorandum dated January 30, 2004, both of which are applicable to all employees, and sufficiently demonstrated that FPL Energy, LLC was, in fact, compliant with CIP-001-1 R3 as of June 18, 2007, when the Requirement became enforceable, and as of September 21, 2007, the date FPL Energy, LLC certified the Mitigation Plan was complete.

FPL Energy, LLC’s Mitigation Plan to address PRC-005-1 R1 and R2 was submitted on September 25, 2008 and accepted by SERC on October 2, 2008 and were approved by NERC on

reporting procedures as appropriate to their circumstances. SERC Reliability Corporation determined that FPL Energy, LLC had a working telephone number for the FBI during the period at issue.

⁹ See 18 C.F.R § 39.7(d)(7).

¹⁰ MP-2007-001795 addressed the violations of CIP-001-1 R1, R2, R3 and R4. Only CIP-001-1 R3 was mitigated by this Mitigation Plan. SERC initiated a second NAVAPS on May 5, 2008 to address CIP-001-1 R1, R2 and R4 because FPL Energy, LLC’s evidence in support of the completion of the Mitigation Plan was found to be lacking to substantiate compliance with these three Requirements.

October 20, 2008. Specifically, FPL Energy, LLC's Mitigation Plan to address violations of PRC-005-1 R1 and R2 identified the underlying need to update its Protection System maintenance and testing program document to include additional components requested by SERC, procedures associated with maintenance and testing work need to be summarized, and the basis for intervals need to be clarified to include specific industry documents, manufacturer recommendations and operational experience. FPL Energy, LLC also was required to collect and retain maintenance and test records associated with additional components requested by SERC, and those records must include commissioning records and maintenance and test reports. The Mitigation Plan for these two violations is designated as MIT-07-1070 and was submitted as non-public information to FERC on October 20, 2008 in accordance with FERC orders. FPL Energy, LLC certified on November 3, 2008 to SERC that its Mitigation Plan was completed on November 3, 2008. SERC reviewed the evidence FPL Energy, LLC submitted in support of its Certification of Completion. Specifically, FPL Energy, LLC provided the following evidence in support of its Certification of Completion: (1) a procedure summary table in generation Protection System maintenance and testing document dated October 10, 2008, which provided the summary of maintenance and testing procedures, the intervals and their bases for all components defined as part of the Protection System; (2) a document that provided evidence of maintenance and testing performed within the prescribed seven-year interval; (3) a document that demonstrated that the associated communication systems at FPL Energy, LLC's Calhoun plant were tested and this system was found to be the only such communication system in SERC; (4) an e-mail from the maintenance and testing contractor retained by the Calhoun plant, dated September 17, 2008, verifying relay functional testing was completed on April 20, 2008; and (5) a document that showed evidence of PT and CT testing as described in the Mitigation Plan. Accordingly, SERC verified on January 6, 2009 that the Mitigation Plan was timely completed.

FPL Energy, LLC's Mitigation Plan to address CIP-001-1 R1 and R2 was submitted on September 25, 2008¹¹ and accepted by SERC on October 2, 2008 and was approved by NERC on October 20, 2008. Specifically, FPL Energy, LLC's Mitigation Plan to address violations of CIP-001-1 R1 and R2 identified the underlying need to update its procedures to include a means of identifying sabotage, communicating sabotage event information to plant personnel and communicating sabotage event information to appropriate parties in the Interconnection. Also, FPL Energy, LLC was required to develop a means of alerting other sites of sabotage events outside of their area. The Mitigation Plan for these two violations is designated as MIT-07-1071 and was submitted as non-public information to FERC on October 20, 2008 in accordance with FERC orders. Work toward completion of the Mitigation Plans occurred during on-going settlement discussions and SERC received progress reports from FPL Energy, LLC during those discussions. FPL Energy, LLC certified on October 6, 2008 to SERC that its Mitigation Plan was completed on October 1, 2008. SERC reviewed the evidence FPL Energy submitted in support of its Certification of Completion and verified on October 16, 2008 that the Mitigation Plan was timely completed. Evidence reviewed and verified by SERC consisted of FPL Energy, LLC's revised Sabotage Reporting Procedures for each of its three plants in the SERC Region. SERC staff confirmed that FPL Energy, LLC's revised procedures included the elements required by CIP-001-1.

¹¹ On the SERC verification document, it states the MP was submitted on June 25, 2008 instead of September 25, 2008.

Statement Describing the Proposed Penalty, Sanction or Enforcement Action Imposed¹²

Basis for Determination

Taking into consideration the Commission's direction in Order No. 693, the NERC Sanction Guidelines and the Commission's July 3, 2008 Guidance Order,¹³ the NERC BOTCC reviewed the Settlement Agreement and supporting documentation on October 27, 2008. The NERC BOTCC approved the Settlement Agreement, including SERC's imposition of a financial penalty of \$250,000 against FPL Energy, LLC, in addition to other actions to promote prospective 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 alleged violations at issue.

In reaching this determination, NERC BOTCC considered the following factors: (1) FPL Energy, LLC self-reported the original possible violations; (2) SERC reported that, although FPL Energy, LLC failed to respond initially to requests for evidence substantiating completion of the Mitigation Plans, FPL Energy, LLC was cooperative in the violation investigation during the February 2008 audit and follow-up site visit in April 2008; (3) SERC reported that the violations in question were primarily documentation-related and the risk to the reliability of the bulk power system was relatively low¹⁴; and (4) since the initiation of the compliance enforcement action by SERC, FPL Energy, LLC has named a reliability compliance director supervised at a high level in the company, added regional compliance managers, and FPL Energy, LLC's compliance program includes formal internal self-auditing and self assessment. The NERC BOTCC considered the following aggravating circumstances: (1) FPL Energy, LLC did not provide the required evidence supporting completion of its Mitigation Plan when required; (2) during an approximate four month period following certification Mitigation Plan closure, FPL Energy, LLC did not respond to requests by SERC to provide the required evidence; and (3) FPL Energy, LLC certified successful completion of the Mitigation Plans when this was not the case.

Therefore, NERC approves the Settlement Agreement and believes that the proposed \$250,000 dollar penalty is appropriate and consistent with NERC's goal to ensure reliability of the bulk power system.

¹² See 18 C.F.R § 39.7(d)(4).

¹³ *North American Electric Reliability Corporation*, "Guidance Order on Reliability Notices of Penalty," 124 FERC ¶ 61,015 (2008).

¹⁴ SERC reported that, while FPL Energy, LLC had a maintenance and testing program, the program document did not reference all of the required elements and content set forth in Requirement 1 (did not include all of the elements of Protection Systems and did not include the basis for intervals). Over time, FPL Energy, LLC produced evidence that the maintenance and testing was being performed. With respect to CIP-001-1, SERC stated that FPL Energy, LLC had emergency procedures in place for its facilities but the procedures did not specifically address sabotage and reporting to the FBI.

Pursuant to Order No. 693, the penalty will be effective upon expiration of the 30 day period following the filing of this Notice of Penalty with FERC, or, if FERC decides to review the penalty, upon final determination by FERC.

The Record of the Proceeding¹⁵

The record of the proceeding includes the following documents and material:

- a) Settlement Agreement by and Between FPL Energy, LLC and SERC Reliability Corporation, included in Attachment a;
- b) Mitigation Plans designated as MP-2007-001795, MIT-07-1070 and MIT-07-1071, included as Attachment b;
- c) FPL Energy, LLC's certification of completion of the Mitigation Plan designated as MP-2007-001795 dated September 24, 2007, certification of completion of the Mitigation Plan designated as MIT-07-1070 dated November 3, 2008 and certification of completion of the Mitigation Plan designated as MIT-07-1071 dated October 6, 2008, included as Attachment c; and
- d) SERC's statement of verification that the Mitigation Plans designated as MIT-07-1070 has been completed, dated January 6, 2009, and statement of verification that the Mitigation Plan designated as MIT-07-1071 has been completed, dated October 16, 2008, included as Attachment d.¹⁶

A Form of Notice Suitable for Publication¹⁷

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

Notices and Communications

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

¹⁵ See 18 C.F.R. § 39.7(d)(5).

¹⁶ SERC Reliability Corporation verified the Completion of the Mitigation Plan designated as MP-2007-001795 during the audit conducted on February 11-13, 2008.

¹⁷ See 18 C.F.R. § 39.7(d)(6).

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*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.

Conclusion

NERC respectfully requests that the Commission accept this Notice of Penalty as compliant with its rules, regulations and orders.

Respectfully submitted,

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cc: FPL Energy, LLC
SERC Reliability Corporation

Attachments

Attachment a

Settlement Agreement by and between FPL Energy, LLC and SERC Reliability Corporation

**SETTLEMENT AGREEMENT
OF
SERC RELIABILITY CORPORATION
AND
FPL ENERGY, LLC**

I. INTRODUCTION

1. SERC Reliability Corporation (“SERC”) and FPL Energy, LLC (“FPL Energy”) enter into this Settlement Agreement (“Agreement”) to resolve all outstanding issues arising from a preliminary and non-public assessment resulting in SERC’s determination and findings, pursuant to the North American Electric Reliability Corporation (“NERC”) Rules of Procedure, of violations by FPL Energy of the NERC Reliability Standards CIP-001-1 and PRC-005-1.

II. STIPULATION

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

Background

3. FPL Energy is a wholly owned indirect subsidiary of FPL Group, Inc., and was formed in 1998 to aggregate FPL Group’s existing merchant generation business. Through its subsidiaries, FPL Energy owns and operates a portfolio of over 50 NERC-registered generating entities that total over 16,000 MW of net generating capacity and are located in 26 states and two Canadian provinces.

4. In the SERC region, FPL Energy’s subsidiaries own three generating facilities:

Calhoun Power Company I, LLC (“Calhoun”). Calhoun is a natural gas-fired facility with the capacity to produce up to approximately 668 MW of electricity. The facility is located in Anniston, Alabama.

Cherokee Cogeneration Partners (“Cherokee”). Cherokee is a natural gas-fired qualifying facility with the capacity to produce up to approximately 98 MW of electricity. The facility is located in Cherokee County, South Carolina.

Doswell Limited Partnership (“*Doswell*”). *Doswell* is a natural gas-fired facility with the capacity to produce up to approximately 880 MW of electricity. The facility is located in Ashland, Virginia.

Alleged Violations

5. The related Requirements of the Reliability Standards read as follows:

CIP-001-1, Sabotage Reporting:

R1. Each Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, and Load Serving Entity shall have procedures for the recognition of and for making their operating personnel aware of sabotage events on its facilities and multi-site sabotage affecting larger portions of the Interconnection.

R2. 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.

R3. Each Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, and Load Serving Entity shall provide its operating personnel with sabotage response guidelines, including personnel to contact, for reporting disturbances due to sabotage events.

R4. Each Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, and Load Serving Entity shall establish communications contacts, as applicable, with local Federal Bureau of Investigation (FBI) or Royal Canadian Mounted Police (RCMP) officials and develop reporting procedures as appropriate to their circumstances.

PRC-005-1, Protection System Maintenance and Testing:

R1. Each Transmission Owner and any Distribution Provider that owns a transmission Protection System and each Generator Owner that owns a generation Protection System shall have a Protection System maintenance and testing program for Protection Systems that affect the reliability of the BES. The program shall include:

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

R1.2. Summary of maintenance and testing procedures.

R2. Each Transmission Owner and any Distribution Provider that owns a transmission Protection System and each Generator Owner that owns a generation Protection System shall provide documentation of its Protection System maintenance and testing program and the implementation of that program to its Regional Reliability 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.

NERC Glossary of Terms:

“Protection System” is defined as “Protective relays, associated communication systems, voltage and current sensing devices, station batteries and DC control circuitry.”

6. On June 1, 2007, FPL Energy self-reported possible violations of thirteen Reliability Standards including CIP-001-1 R1, R2, R3, and R4 and PRC-005-1 R2.
7. SERC Compliance Staff initiated their data gathering and analysis process to determine whether the self-reported possible violations should be elevated to Alleged Violations, as that term is defined in the NERC Rules of Procedure including Appendix 4C (NERC Compliance Monitoring and Enforcement Program (CMEP)). SERC Compliance Staff confirmed that FPL Energy is registered in the SERC Region as a Generator Owner and is, therefore, subject to compliance with PRC-005-1 and is also registered as a Generator Operator and is, therefore, subject to compliance with CIP-001-1.
8. SERC Compliance Staff’s actions included establishing communication with a technical contact and compliance contact at FPL Energy and receiving data from FPL Energy to substantiate their self-reports.
9. This process revealed that FPL Energy had been very conservative in their appraisal of their compliance and the majority of the self-reports were dismissed. SERC Compliance Staff did find sufficient bases to allege violations of CIP-001-1 R1, R2, R3, and R4, as well as PRC-005-1 R2.

III. PARTIES’ SEPARATE REPRESENTATIONS

Statement of SERC and Summary of Findings

10. Regarding the violations of CIP-001-1 R1, R2, R3, and R4:
 - i. SERC Compliance Staff found that it agreed with FPL Energy’s self-report in that FPL Energy lacked sufficient evidence of compliance for any of the four requirements of the Standard. The associated Notice of Alleged Violation (NoAV) was issued on August 27, 2007. In the NoAV, SERC Compliance Staff exercised its discretion to assess no penalty against FPL Energy for these violations because: (1) they occurred during the period of transition to mandatory standards during which the Federal Energy Regulatory Commission (“Commission”) authorized such discretion (see Order No 693 and 693a); and (2) the violations were deemed by SERC Compliance Staff not to be violations that put bulk power system reliability at serious or substantial risk. However, the NoAV also indicated that penalties could be imposed if these Alleged

Violations were not mitigated in accordance with an approved Mitigation Plan. The SERC Board Compliance Committee (“BCC”) subsequently provided regional confirmation of the alleged violations. A Final Notice of Confirmed Violation was issued by SERC to FPL Energy on November 7, 2007.

- ii. On June 21, 2007, FPL Energy submitted a Mitigation Plan that was accepted by the SERC BCC on August 9, 2007. In that Mitigation Plan, FPL Energy indicated that they would develop a sabotage reporting procedure by August 1, 2007 and complete the Mitigation Plan implementation by December 31, 2007. The Mitigation Plan was approved by NERC on November 8, 2007 and was submitted by NERC to the Commission on November 8, 2007. The Mitigation Plan was designated as MP-2007-001795.
- iii. On September 24, 2007, FPL Energy certified completion of the Mitigation Plan on September 21, 2007, but did not submit evidence of completion as required by the CMEP. On November 29, 2007, January 11, 2008 and again on January 23, 2008, SERC requested documentation to support closure of FPL Energy’s Mitigation Plan. On February 1, 2008, SERC sent a formal letter to FPL Energy directing FPL Energy to submit evidence of completion of the Mitigation Plan.
- iv. On February 7, 2008, FPL Energy posted evidence on the SERC FTP server. SERC Compliance Staff reviewed the posted information and data and concluded that it was inadequate to support closure of the Mitigation Plan. The sabotage reporting procedure did not include a method of sabotage identification or instructions for communication to operating personnel or to the interconnection. Nor was satisfactory evidence of communication with the FBI presented. Additional review of evidence by the SERC audit team at the February 11-13, 2008 compliance audit confirmed that the evidence was lacking to substantiate support compliance with CIP-001 R1, R2, and R4; however, the evidence did support compliance with R3. As discussed in Paragraph 12 below, a subsequent review of facts and evidence, and revised implementation guidance from NERC, resulted in a finding that FPL Energy’s evidence was sufficient for compliance with R4.

11. Regarding the violation of PRC-005-1 R2:

- i. SERC Compliance Staff found that it agreed with FPL Energy’s self-report in that FPL Energy lacked sufficient evidence of maintenance performed on selected protection system components. SERC Compliance Staff issued a NoAV on August 27, 2007. In the NoAV, SERC Compliance Staff exercised its discretion to assess no penalty against FPL Energy for these violations because (1) they occurred during the period of

transition to mandatory standards during which the Commission authorized such discretion (see Order Nos. 693 and 693-A); and (2) the violations were deemed by SERC Compliance Staff not to be violations that put bulk power system reliability at serious or substantial risk. However, the NoAV also indicated that penalties could be imposed if these Alleged Violations were not mitigated in accordance with an approved Mitigation Plan. The SERC BCC subsequently provided regional confirmation of the alleged violations. A Final Notice of Confirmed Violation was issued by SERC to FPL Energy on November 7, 2007.

- ii. On June 21, 2007, FPL Energy submitted a Mitigation Plan that was accepted by the SERC BCC on August 9, 2007. In that Mitigation Plan, FPL Energy indicated it would develop processes and procedures to centralize all maintenance records by December 31, 2007. The Mitigation Plan was approved by NERC on November 8, 2007 and was submitted by NERC to the Commission on November 8, 2007. The Mitigation Plan was designated as MP-2007-001794.
- iii. On September 24, 2007, FPL Energy certified completion of the Mitigation Plan on September 21, 2007, but did not submit evidence of completion as required by the CMEP. On November 29, 2007, January 11, 2008 and again on January 23, 2008, SERC requested documentation to support closure of FPL Energy's Mitigation Plan.
- iv. On February 1, 2008, SERC sent a formal letter to FPL Energy directing FPL Energy to submit evidence of completion of the Mitigation Plan. On February 7, 2008, FPL Energy posted evidence on the SERC FTP server. Upon review of the information provided by FPL Energy in support of its certification of Mitigation Plan completion, SERC Compliance Staff concluded that the evidence was inadequate to support closure of the Mitigation Plan. Specifically, the evidence provided by FPL Energy did not include a description of maintenance and testing to be performed, basis for the maintenance and testing intervals, or records of maintenance of batteries, Direct Current (DC) control circuits, or potential and current sensing devices as required by the standard.
- v. Additional review of evidence by the SERC audit team at the compliance audit performed on February 11-13, 2008 confirmed that evidence supporting closure of FPL Energy's Mitigation Plan for Requirement 2 was incomplete as follows:

At FPL Energy's Calhoun Facility, the evidence submitted was deficient because it lacked testing documentation for certain components including batteries; at FPL Energy's Cherokee Facility, the evidence submitted was deficient because it lacked testing

documentation for certain components including batteries, DC control circuits, and voltage and sensing devices; and at FPL Energy's Doswell Facility, the evidence submitted was deficient because it lacked testing documentation for certain components including batteries and DC control circuits.

- vi. In addition, the audit team identified possible violations of PRC-005-1 Requirement 1. For all of FPL Energy's facilities in the SERC Region, the evidence presented to the audit team was deficient in that the procedure did not list the necessary components of the Protection Systems. Based on the audit team's findings at the February 11-13, 2008 compliance audit, SERC Compliance Staff on February 15, 2008 initiated a new compliance enforcement action against FPL Energy for an additional post-June 18 possible alleged violation of R1 for FPL Energy's failure to include the voltage and current sensing devices, batteries, and communication systems in their maintenance program as required by the Standard.
- vii. SERC Compliance Staff revisited FPL Energy on April 3, 2008 to review data and information that had not been available for the audit team to review during the February 11-13, 2008 compliance audit. During the April 3, 2008 on-site visit, FPL Energy was able to produce considerable evidence to support its compliance with PRC-005-1 R1 and R2 with respect to batteries and DC control circuits, including a spreadsheet created in September 2006 that summarized maintenance and testing intervals and their basis for batteries, relays, transformers, turbines, and a variety of other equipment. However, FPL Energy was not able to produce similar evidence for voltage and current sensing devices (PT's and CT's). Therefore, SERC Compliance Staff concluded that FPL Energy continued to be in violation of R1 and R2 with respect to those elements of its Protection Systems.

12. On May 5, 2008, SERC issued to FPL Energy a Notice of Alleged Violation and Proposed Penalty or Sanction (NAVAPS) citing violations of Requirements R1 and R2 of PRC-005-1 and Requirements R1, R2 and R4 of CIP-001-1.

CIP-001-1 R1 was assigned a violation risk factor (VRF) of Medium, based on the Violation Risk Factor Matrix from the NERC December 17, 2007 Compliance Filing . This violation has endured from June 18, 2007, the date the CIP-001-1 became effective and enforceable, until the date of this Agreement.

The violation of CIP-001-1 R2 is assigned a violation risk factor (VRF) of Medium, based on the Violation Risk Factor Matrix from the NERC December 17, 2007 Compliance Filing. This violation has endured from June 18, 2007,

the date the CIP-001-1 became effective and enforceable, until the date of this Agreement.

The violation of PRC-005-1 R1 was assigned a violation risk factor (VRF) of High, based on the Violation Risk Factor Matrix from the NERC December 17, 2007 Compliance Filing. This violation has endured from June 18, 2007, the date the PRC-005-1 became effective and enforceable, until the date of this Agreement.

The violation of PRC-005-1 R2 was assigned a violation risk factor (VRF) of High, consistent with the Violation Risk Factor Matrix from the NERC December 17, 2007 Compliance Filing assigned at the sub-requirement level rather than the “Lower” VRF assigned at the requirement level, because SERC believed that any violation of Reliability standards should be prosecuted based on the higher risk level. This violation has endured from June 18, 2007, the date the PRC-005-1 became effective and enforceable, until the date of this Agreement.

Pursuant to rulings of the Commission, such penalties may be applied on a daily basis for the duration of the violation.

Based on evidence related to CIP-001-1 Requirement 4 reviewed during and after the April 3, 2008 follow-up site visit, the submission by FPL Energy of an affidavit on April 17, 2008 affirming communications with the local FBI office, and the revised guidance on CIP-001-1 R4 issued by NERC on June 3, 2008, SERC Compliance Staff determined to dismiss the Alleged Violation of CIP-001-1 R4, as reflected in this Agreement.

Additional information regarding the penalty to be imposed upon FPL Energy for the above violations is included paragraph 27 below.

13. In regards to the evidence and circumstances described above with respect to CIP-001-1 R1 and R2, SERC finds that FPL Energy failed to remedy the violations of CIP-001-1 R1 and R2 in accordance with the Mitigation Plan that was accepted by SERC and approved by NERC. The Mitigation Plan was certified as complete by FPL Energy on September 24, 2007. However, FPL Energy did not submit any accompanying evidence (data or information), as required, to allow SERC to verify completion. Sufficient evidence to verify completion and compliance with the subject Reliability Standard was not presented to SERC, despite repeated requests by SERC for such supporting evidence FPL Energy failed to fully demonstrate completion of all required Mitigation Plan actions and compliance with CIP-001-1 R1 and R2 and is therefore subject to the imposition of associated penalties.
14. In regards to the evidence and circumstances described above with respect to PRC-005-1 R2, SERC finds that FPL Energy failed to remedy the violation of

PRC-005-1 R2 in accordance with the Mitigation Plan that was accepted by SERC and approved by NERC. The Mitigation Plan was certified as complete by FPL Energy on September 24, 2007. However, FPL Energy did not submit any accompanying evidence (data or information), as required, to allow SERC to verify completion. Sufficient evidence to verify completion and compliance with the subject Reliability Standard was not presented to SERC, despite repeated requests by SERC for such supporting evidence. FPL Energy failed to fully demonstrate completion of all required Mitigation Plan actions and compliance with PRC-005-1 R2 and is therefore subject to the imposition of associated penalties. Further, during the scheduled compliance audit of FPL Energy during February 2008, SERC's audit team determined that the entity was in violation of PRC-005 R1 and as a result is subject to added sanctions and penalties for that violation.

15. In regards to the evidence and circumstances with respect to PRC-005-1 R1, SERC finds that FPL Energy failed to include voltage and current sensing devices, batteries, and communication systems in their maintenance program as required by the Standard and is therefore in violation of PRC-005 R1 and is therefore subject to the imposition of associated penalties.
16. On May 8, 2008, immediately following the issuance of the NAVAPS, FPL Energy requested initiation of settlement discussions. Since then FPL Energy has demonstrated its commitment to remedy these issues and has worked closely with SERC Compliance Staff in developing its Mitigation Plans.
17. SERC agrees that this Agreement is in the best interest of the parties and in the best interest of bulk power system reliability.

Statement of FPL Energy

18. FPL Energy agrees to the stipulated facts, but neither admits nor denies that they constitute violations. Nonetheless, in view of the costs and risks of litigation, and in the interest of resolving any dispute between SERC and itself regarding the acts in question, FPL Energy agrees to undertake the obligations set forth in this Agreement.
19. During the period immediately prior to the date of mandatory compliance set by FERC of June 18, 2007, FPL Energy filed a number of self-reports with multiple regions. Reporting occurred based on an understanding that a self-report was required in the event either the organization was in violation or if the state of compliance was otherwise unknown. Many self-reports were created on the premise that if the documentation proving compliance was not centrally located and immediately available, even if it was presumably in existence, the event constituted a violation. After submitting the self-reports, as required by NERC CMEP Section 3.5, mitigation plans were sent to and approved by each Regional Entity. FPL Energy responded to the August 27,

2007 NoAV in the form of a certified closure of the open mitigation plans for CIP-001-1 and PRC-005-1.

20. Through the settlement process FPL Energy has come to understand that SERC expected evidence of mitigation plan closure. With regard to the November 29, 2007 request referenced above, FPL Energy believes this request for documentation may be a source of miscommunication. While FPL Energy does not dispute that SERC submitted a letter via email, FPL Energy, through its due diligence, has not been able to determine that it was delivered to the intended receiver.

21. Requested Evidence

- i. FPL Energy, in initially closing Mitigation Plans in SERC and the other six NERC regions where FPL Energy subsidiaries operate, incorrectly interpreted NERC CMEP Section 6.6 dated April 17, 2007, to mean that each region would “request” evidence through an Investigation, Spot Check, or some other form of similar auditing process. FPL Energy, therefore, did not submit evidence with its closure plans. In addition, FPL Energy interpreted PRC-005-1 R2 as an “on request” requirement, per the directive set forth in Requirement 2, and did not understand that SERC required added evidence at that time.
- ii Evidence supplied based on FPL Energy understanding of the Mitigation Plan process at that time included a maintenance and testing program document, which subsequently was found deficient by SERC.
- iii. Post-audit, an email dated March 26, 2008 from SERC to FPL Energy was interpreted as a request for maintenance and test records as per PRC-005-1 R2. Instructions were provided to have records available for a planned site visit on April 3, 2008. On a teleconference dated March 27, 2008, SERC provided instructions to have maintenance and test records related to batteries and voltage and current sensing devices available for inspection during the April 3, 2008 site visit. During the site visit, FPL Energy provided relay calibration records as required by its PRC-005-1 program as well as battery and voltage/current sensing device maintenance records, records for Current and Potential Transformers were not provided. The SERC representatives informed FPL Energy that voltage and current sensing devices included Current and Potential Transformers, data for which was subsequently provided at a later date.

22. PRC-005-1

- i. In working toward completion of the approved Mitigation Plan, FPL Energy convened a team of internal resources and subject matter experts to begin the process of interpretation. By September, the team had

considered various sources in drafting its compliance documentation. At the time, the team did not interpret the NERC Glossary as required for mandatory compliance.

- ii. Subsequent to the audit, SERC provided FPL Energy with a draft version of a SERC regional document entitled *SERC Supplement Maintenance & Testing – Protection Systems (Transmission, Generation, UFLS, UVLS, & SPS)*, which was approved by SERC on May 29, 2008. This document clarifies the definition of a protection system in the SERC region and provides guidance on the types of maintenance and test activities that are appropriate within the region. FPL Energy was not aware of the prior approved version of the supplement, approved since June 1, 2006.
- iii. For PRC-005, the program document and procedures required as per Requirement 2 will be updated immediately based on the schedule set forth in the Mitigation Plan. Work associated with the program document and procedures will be scheduled on the basis that the date the settlement is finalized is the start point for compliance. All work will be performed within the specified intervals measured from the start point for compliance.

23. CIP-001-1

- i. Based on the pre-June 18, 2007 Mitigation Plan, FPL Energy worked to identify documentation that met compliance to CIP-001-1. FPL Energy interpreted the term “sabotage” to mean malicious acts resulting in the interruption of production. Suspicious and criminal activity not resulting in a reduction of output for a generating station would not qualify as sabotage. Common to generating stations are procedures addressing emergency conditions and unexpected events that interrupt production. In meeting CIP-001-1 R1, FPL Energy identified existing policies and procedures which address identification and response of events that would qualify as sabotage (*e.g.*, how a generating station responds to threat condition levels under the Homeland Security Advisory System).
- ii. CIP-001-1 R2 requires that a Generator Operator have procedures for communicating sabotage events to “appropriate parties in the interconnection.” FPL Energy struggled with the term “appropriate” as applicable to an independent power producer (“IPP”). An interpretation of the term was created to include parties named in each generating station’s interconnection agreement. As an IPP, FPL Energy would not have sufficient knowledge of the impact of a sabotage event on the host transmission system, and as such the most appropriate party to communicate a localized disruption of production would be the interconnected transmission owner/operator. In the case of sites in SERC, each host transmission company is either the Reliability Coordinator or

acts on behalf of the Reliability Coordinator to each site. In an effort to demonstrate compliance in accordance with the definition provided above, FPL Energy linked CIP-001-1 R2 with existing protocols for communicating unit output reductions to the host transmission company.

- iii. CIP-001-1 R3 was self-reported and included in the original Notice of Alleged Violation, but through the audit process was found to be compliant.
- iv. CIP-001-1 R4 was self-reported and included in the original Notice of Alleged Violation but upon further investigation and guidance from NERC, the alleged violation was dismissed.
- v. For CIP-001-1 all policies and procedures requiring changes as per an approved Mitigation Plan will be done immediately and in accordance with the schedule set forth in the Mitigation Plan.

IV. MITIGATING ACTIONS, REMEDIES AND SANCTIONS

- 24. For purposes of settling any and all disputes arising from SERC's assessment into the matters set forth in the Statement of SERC and Summary of Findings in Section III above, SERC and FPL Energy agree that FPL Energy shall take the actions summarized in the following table. The actions described in Table parts ii through iv are specified in Attachment A containing the respective Mitigation Plans.

Activity	Dates to be completed
i.FPL Energy shall pay a monetary penalty of <u>\$250,000.00</u> to SERC via wire transfer to a SERC account that will be outlined in an invoice sent to FPL Energy within twenty (20) calendar days after the Agreement is either approved by the Commission or is rendered effective by operation of law. SERC shall notify NERC if the payment is not received.	Within Twenty (20) calendar days after the receipt of the invoice.
ii.FPL Energy will mitigate violations associated with CIP-001-1 R1 and R2 by updating its procedures to include a means of identifying sabotage, communicating sabotage event information to plant personnel, and communicating sabotage event information to appropriate parties in the interconnection. Also, FPL Energy will develop a means of alerting other sites of sabotage events outside of their area.	10/1/08
iii.FPL Energy will mitigate violations associated with PRC-005-1 R1 by updating its protection system maintenance	Complete

and testing program document to include additional components requested by SERC, procedures associated with maintenance and testing work will be summarized, and the basis for intervals will be clarified to include specific industry documents, manufacturer recommendations, and operational experience.

- iv. FPL Energy will mitigate violations associated with PRC-005-1 R2 by collecting and retaining maintenance and test records associated with the additional components requested by SERC. Records will include commissioning records and maintenance and test reports.

11/4/08

25. In order to facilitate SERC's need to communicate the status and provide accountability to the ERO (NERC), FPL Energy will provide quarterly status updates, or more frequently upon request by SERC. FPL Energy will submit these status updates to SERC in accordance with the confidentiality provisions of Section 1500 of the NERC Rules of Procedure.
26. It is understood that SERC Compliance Staff shall audit the progress of Mitigation Plans and any other remedies of this Agreement, including, but not limited to, site inspection, interviews, and requests for other documentation to validate progress and/or completion of the Mitigation Plans and any other remedies of this Agreement. SERC Compliance Staff shall reasonably coordinate audits and information requests with FPL Energy related to this Agreement.
27. SERC Compliance Staff applied the Sanction Guidelines of the CMEP, Appendix 4B for determination of sanctions and penalties to determine the penalty to be imposed, SERC Compliance Staff considered the following mitigating circumstances:
- i. FPL Energy did self-report the original possible violations;
 - ii. FPL Energy cooperated with SERC during the audit and follow-up site visit in April 2008
 - iii. FPL Energy has provided evidence of efforts toward compliance;
 - iv. The violations are primarily documentation related and the risk to reliability is relatively low.
 - v. FPLE has a compliance program that was well documented and widely disseminated in the company. The named reliability compliance director was supervised at a high level in the company and supported by senior management. FPLE's compliance program includes formal internal self-auditing and self-assessment.

However, the following aggravating circumstances were also considered:

- i. During an approximate four-month period following certification of mitigation plan closure, and despite requests from SERC, FPL Energy did not provide evidence supporting completion of the subject Mitigation Plans;
- ii. FPL Energy certified completion of the Mitigation Plans when they were, in fact, not compliant; and
- iii. The violations are still in existence until such time as the mitigation plans closures are accepted by SERC.

28. SERC Compliance Staff determined that as of the date of this Agreement, FPL Energy has not completed its Mitigation Plan for each of the matters identified in Paragraphs 10 and 11.

Based on the above actions taken or to be taken by FPL Energy, the degree of cooperation following the issuance of the NAVAPS, and the evidence that SERC discovered that could have been made available for the audit but was not, and FPL Energy's willingness to enter these settlement negotiations, the amount of penalty to be paid by FPL Energy to SERC pursuant to this Agreement is \$250,000. However, if FPL Energy fails to complete the actions described in the attached Mitigation Plans, SERC reserves the right to assess and collect additional monetary penalty, to impose a sanction or otherwise to impose enforcement actions. FPL Energy shall retain all rights to defend against such additional enforcement actions in accordance with NERC Rules of Procedure.

29. Failure to make a timely penalty payment or to comply with any of the terms and conditions agreed to herein, or any other conditions of this Agreement, shall be deemed to be either the same alleged violations that initiated this Settlement and/or additional violation(s) and may subject FPL Energy to new or additional enforcement, penalty or sanction actions in accordance with the NERC Rules of Procedure.

30. If FPL Energy does not make the monetary penalty payment above at the time agreed to by the parties, interest payable to SERC will begin to accrue pursuant to the Commission's regulations at 18 C.F.R. § 35.19(a)(2)(iii) from the date that payment is due, in addition to the penalty specified above.

31. Subject to the limitations in Paragraphs 28 through 30 and 35 of this Agreement, SERC shall, as of the effective date of this Agreement, release and discharge FPL Energy of all past claims, allegations, demands and liabilities arising under or associated with the subject alleged violations of CIP-001-1 R1 and R2 and PRC-005-1 R1 and R2.

V. ADDITIONAL TERMS

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

36. Each of the undersigned warrants that he or she is an authorized representative of the entity designated, is authorized to bind such entity and accepts this Agreement on the entity's behalf.
37. The undersigned representative of each party affirms that he or she has read this Agreement, that all of the matters set forth in this Agreement are true and correct to the best of his or her knowledge, information and belief, and that he or she understands that this Agreement is entered into by such party in express reliance on those representations; provided, however, that such affirmation by each party's representative shall not apply to the other party's statements of position set forth in Section III of this Agreement.
38. This Agreement may be signed in counterparts.
39. This Agreement is executed in duplicate, each of which so executed shall be deemed to be an original.

***Remainder of page intentionally blank.
Signatures to be affixed to the following page.***

Agreed to and accepted:



Gerry W. Cauley
President and CEO
SERC RELIABILITY CORPORATION

10/3/2008
Date



Jan Bagnall
Senior Director, Transmission
Reliability and Compliance
FPL ENERGY, LLC

9/25/08
Date

Attachment b

**Mitigation Plans designated as
MP-2007-001795, MIT-07-1070 and MIT-07-1071**



Mitigation Plan Submission Form

SERC Reliability Corporation Violation Mitigation Plan Submittal Form (5-24-07)

Confirmation of the violation does not have to be received by the registered entity before a mitigation plan may be submitted, nor does the entity waive the right to contest the notice of violation after it has been received.

Name of registered entity submitting this mitigation plan:
FPL Energy, LLC

Date of Submission:
June 21, 2007

Name of technical contact (submitter):
Benjamin Church

Contact Information of the submitter:
(561) 304-5463
benjamin_church@fpl.com

Is this mitigation plan submitted to cover the violation of other entities? If so, whom does it cover? No

Which reliability standard was violated? CIP-001-1

Which specific requirement of the above standard was violated? R1, 2, 3, 4

State the cause of the violation(s). Describe why the entity is/was non-compliant with the requirement cited above: FPL Energy currently has means of handling and escalating any malicious activity. Documentation of this activity has not been formalized and approved by the FPL Energy Compliance team.

Provide a description of the action plan the entity will use to mitigate the violation including milestone schedule. Note: Milestones should not be more than three months apart. Extend the table below, if necessary.

Milestone Activity	Target Completion Date
Perform fleet-wide Compliance Gap Analysis	Completed
Create Procedure for sabotage identification, handling, and reporting.	08/01/07

Print on Registered Entity's Corporate Letterhead

What is the date by which this mitigation plan will be fully implemented and the alleged or confirmed violation(s) corrected? Note: additional sanctions or penalties may be associated with failure to complete the plan on schedule. 12/31/2007

Provide a description of actions taken to prevent a recurrence of this violation:

Activity	Target Completion Date
Created internal compliance team for NERC Reliability Standards and have received Executive buy-in.	Completed
Hired Compliance Manager	Completed
Retained third-party consulting support in performing Gap Analysis and support remediation activities	On-Going
Purchased Enterprise-level Compliance Management Software	Completed
Develop internal map of compliance activities and responsibilities	09/01/07
Create Compliance Documentation Templates	10/15/07
Centralize all compliance-related documentation	11/01/07
Finalize Control and Compliance Documentation for 'non-compliant' elements.	12/31/07

Describe the anticipated impact on the reliability of the Bulk Electric System resulting from the violation and while the mitigation plan is being implemented.

Minimal

Is there any other information related to this violation and/or mitigation plan that you deem necessary or appropriate to provide?

No

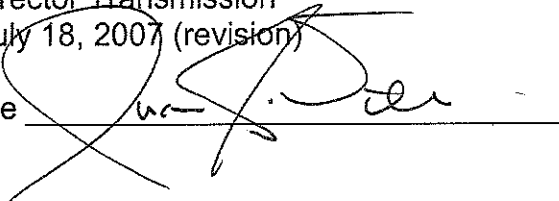
Provide the name, title, and signature, and date of signature of an authorized executive signatory

Name: Juan R Villar

Title: Director Transmission

Date: July 18, 2007 (revision)

Signature

A handwritten signature in black ink, appearing to read 'Juan R Villar', is written over a horizontal line. The signature is stylized with a large 'J' and 'V'.



Mitigation Plan Submittal Form

Date this Mitigation Plan is being submitted: 9/25/2008

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

- Section 6.2 of the CMEP¹ sets forth the information that must be included in a Mitigation Plan. The Mitigation Plan must include:
 - (1) The Registered Entity's point of contact for the Mitigation Plan, who shall be a person (i) responsible for filing the Mitigation Plan, (ii) technically knowledgeable regarding the Mitigation Plan, and (iii) authorized and competent to respond to questions regarding the status of the Mitigation Plan. This person may be the Registered Entity's point of contact described in Section 2.0.
 - (2) The Alleged or Confirmed Violation(s) of Reliability Standard(s) the Mitigation Plan will correct.
 - (3) The cause of the Alleged or Confirmed Violation(s).
 - (4) The Registered Entity's action plan to correct the Alleged or Confirmed Violation(s).
 - (5) The Registered Entity's action plan to prevent recurrence of the Alleged or Confirmed violation(s).
 - (6) The anticipated impact of the Mitigation Plan on the bulk power system reliability and an action plan to mitigate any increased risk to the reliability of the bulk power-system while the Mitigation Plan is being implemented.
 - (7) A timetable for completion of the Mitigation Plan including the completion date by which the Mitigation Plan will be fully implemented and the Alleged or Confirmed Violation(s) corrected.
 - (8) Implementation milestones no more than three (3) months apart for Mitigation Plans with expected completion dates more than three (3) months from the date of submission. Additional violations could be determined for not completing work associated with accepted milestones.
 - (9) Any other information deemed necessary or appropriate.
 - (10) The Mitigation Plan shall be signed by an officer, employee, attorney or other authorized representative of the Registered Entity, which if applicable, shall be the person that signed the Self-Certification or Self Reporting submittals.

¹ "Uniform Compliance Monitoring and Enforcement Program of the North American Electric Reliability Corporation;" a copy of the current version approved by the Federal Energy Regulatory Commission is posted on NERC's website.



- This submittal form shall be used to provide a required Mitigation Plan for review and approval by SERC and NERC.
- The Mitigation Plan shall be submitted to SERC and NERC as confidential information in accordance with Section 1500 of the NERC Rules of Procedure.
- This Mitigation Plan form may be used to address one or more related violations of one Reliability Standard. A separate mitigation plan is required to address violations with respect to each additional Reliability Standard, as applicable.
- If the Mitigation Plan is approved by SERC and NERC, a copy of this Mitigation Plan will be provided to the Federal Energy Regulatory Commission in accordance with applicable Commission rules, regulations and orders.
- SERC or NERC may reject Mitigation Plans that they determine to be incomplete or inadequate.
- Remedial action directives also may be issued as necessary to ensure reliability of the bulk power system.

Section B: Registered Entity Information

B.1 Identify your organization:

Company Name: FPL Energy, LLC
Company Address: 700 Universe Blvd
 Juno Beach, FL 33408
NERC Compliance Registry ID *[if known]*: NCR01243

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

Name: Benjamin Church
Title: Director, Reliability & Compliance
Email: benajmin.church@fpl.com
Phone: 561-304-5463



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

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

C.1 Standard: CIP-001-1
[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]	SERC Violation ID # [if known]	Requirement Violated (e.g. R3.2)	Violation Date ^(*)
SERC200810007	2008-008	R1	6/18/07
SERC200810008	2008-008	R2	6/18/07

(*) Note: The Violation Date shall be: (i) the date that the violation occurred; (ii) the date that the violation was self-reported; or (iii) the date that the violation has been deemed to have occurred on by SERC. Questions regarding the date to use should be directed to SERC.

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

Violations identified through audit process in February 2008 and Notice of Alleged Violation for (i) failing to make operating personnel aware of sabotage events on its facilities and multi-site sabotage effecting larger portions of the interconnection, (ii) failing to have procedures for communicating information concerning sabotage events to appropriate parties in the interconnection.

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

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

ATTACHMENT A-1



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



Section D: Details of Proposed Mitigation Plan

Mitigation Plan Contents

D.1 Identify and describe the action plan, including specific tasks and actions that your organization is proposing to undertake, or which it undertook if this Mitigation Plan has been completed, to correct the violations identified above in Part C.2 of this form:

CIP 001-1 R1 and R2 will be mitigated with the following corrective actions.

1. Corrective Action 1: (CIP 001-1 R1, R2) Update existing Power Generation Division procedure, *Emergency -FPLE: Sabotage Reporting* to ensure coverage of the following issues:
 - Provides a means for identifying sabotage reporting. Includes a clear definition of sabotage events
 - Provide instruction that FPL Energy's Fleet Performance and Diagnostic Center should contact (i) the Transmission Operator to which the generating facility is interconnected and (ii) the Reliability Coordinator in the event of a sabotage event.
 - Provide notification directions for on-site personnel for communicating sabotage events.

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

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

Mitigation Plan Timeline and Milestones



- D.2 Provide the timetable for completion of the Mitigation Plan, including the completion date by which the Mitigation Plan will be fully implemented and the violations associated with this Mitigation Plan are corrected:

Mitigation plan activities will be completed no later than 10/1/08.

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

Milestone Activity	Proposed Completion Date* (updates shall not be more than 3 months apart)
Corrective Action #1: Develop sabotage procedure master document	Complete
Corrective Action #1: Disseminate sabotage procedure master document to each generating station in the SERC region	Complete
Corrective Action #1: Plants update master document with site specific requirements / information	Complete
Corrective Action #1: Release final approve versions of site sabotage procedures	10/1/08

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

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



Additional Relevant Information (Optional)

- D.4 If you have any relevant additional information that you wish to include regarding the mitigation plan, milestones, milestones dates and completion date proposed above you may include it here:

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

Section E: Interim and Future Reliability Risk

Check this box ☐ and proceed and respond to Part E.2 and E.3, below, if this Mitigation Plan, as set forth in Part D.1, has already been completed.

Abatement of Interim BPS Reliability Risk

- E.1 While your organization is implementing the Mitigation Plan proposed in Part D of this form, the reliability of the Bulk Power System may remain at higher risk or be otherwise negatively impacted until the plan is successfully completed. To the extent they are, or may be, known or anticipated: (i) identify any such risks or impacts; and (ii) discuss any actions that your organization is planning to take or is proposing as part of the Mitigation Plan to mitigate any increased risk to the reliability of the bulk power system while the Mitigation Plan is being implemented:

Procedures referenced in Corrective Action #1 have already been developed and are in place at each of the generating stations in the SERC region. Plant personnel are aware of the requirements of handling sabotage events.

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

Prevention of Future BPS Reliability Risk

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

Internal compliance with the revised procedures will help ensure that all plant personnel are aware of security and sabotage events and



understand the appropriate lines of communications should such event occur. By notifying other entities in the interconnection multi-site incidents may be thwarted and/or handled more expeditiously.

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

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

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

Continued on Next Page

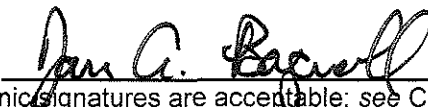


Section F: Authorization

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 SERC for acceptance by SERC and approval by NERC, and
- b) If applicable, certifies that the Mitigation Plan, as laid out in Section D of this form, was completed (i) as laid out in Section D of this form and (ii) on or before the date provided as the 'Date of Completion of the Mitigation Plan' on this form, and
- c) Acknowledges:
 1. I am the Senior Director, Transmission and Reliability & Compliance of FPL Energy, LLC.
 2. I am qualified to sign this Mitigation Plan on behalf of FPL Energy, LLC
 3. I have read and understand FPL Energy, LLC obligations to comply with Mitigation Plan requirements and ERO remedial action directives as well as ERO documents, including, but not limited to, the NERC Rules of Procedure, including Appendix 4(C) (Compliance Monitoring and Enforcement Program of the North American Electric Reliability Corporation" (NERC CMEP)).
 4. I have read and am familiar with the contents of the foregoing Mitigation Plan.
 5. FPL Energy, LLC agrees to be bound by, and comply with, the Mitigation Plan, including the timetable completion date, as approved by SERC and approved by NERC.

Authorized Individual Signature


(Electronic signatures are acceptable; see CMEP)

Name (Print): Jan Bagnall

Title: Senior Director, Transmission and Reliability & Compliance

Date: 9/25/2008



Section G: Comments and Additional Information

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

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

Submittal Instructions:

Please convert the completed and signed document to an Adobe .pdf document using the following naming convention:

[(MP Entity Name (STD-XXX) MM-DD-YY.pdf)]

Email the pdf file to serccomply@serc1.org.

Please direct any questions regarding completion of this form to:

Ken Keels
Manager, Compliance Enforcement
SERC Reliability Corporation
704-357-7372
kkeels@serc1.org



Mitigation Plan Submittal Form

Date this Mitigation Plan is being submitted: 9/25/2008

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

- Section 6.2 of the CMEP¹ sets forth the information that must be included in a Mitigation Plan. The Mitigation Plan must include:
 - (1) The Registered Entity's point of contact for the Mitigation Plan, who shall be a person (i) responsible for filing the Mitigation Plan, (ii) technically knowledgeable regarding the Mitigation Plan, and (iii) authorized and competent to respond to questions regarding the status of the Mitigation Plan. This person may be the Registered Entity's point of contact described in Section 2.0.
 - (2) The Alleged or Confirmed Violation(s) of Reliability Standard(s) the Mitigation Plan will correct.
 - (3) The cause of the Alleged or Confirmed Violation(s).
 - (4) The Registered Entity's action plan to correct the Alleged or Confirmed Violation(s).
 - (5) The Registered Entity's action plan to prevent recurrence of the Alleged or Confirmed violation(s).
 - (6) The anticipated impact of the Mitigation Plan on the bulk power system reliability and an action plan to mitigate any increased risk to the reliability of the bulk power-system while the Mitigation Plan is being implemented.
 - (7) A timetable for completion of the Mitigation Plan including the completion date by which the Mitigation Plan will be fully implemented and the Alleged or Confirmed Violation(s) corrected.
 - (8) Implementation milestones no more than three (3) months apart for Mitigation Plans with expected completion dates more than three (3) months from the date of submission. Additional violations could be determined for not completing work associated with accepted milestones.
 - (9) Any other information deemed necessary or appropriate.
 - (10) The Mitigation Plan shall be signed by an officer, employee, attorney or other authorized representative of the Registered Entity, which if applicable, shall be the person that signed the Self-Certification or Self Reporting submittals.

¹ "Uniform Compliance Monitoring and Enforcement Program of the North American Electric Reliability Corporation," a copy of the current version approved by the Federal Energy Regulatory Commission is posted on NERC's website.



- This submittal form shall be used to provide a required Mitigation Plan for review and approval by SERC and NERC.
- The Mitigation Plan shall be submitted to SERC and NERC as confidential information in accordance with Section 1500 of the NERC Rules of Procedure.
- This Mitigation Plan form may be used to address one or more related violations of one Reliability Standard. A separate mitigation plan is required to address violations with respect to each additional Reliability Standard, as applicable.
- If the Mitigation Plan is approved by SERC and NERC, a copy of this Mitigation Plan will be provided to the Federal Energy Regulatory Commission in accordance with applicable Commission rules, regulations and orders.
- SERC or NERC may reject Mitigation Plans that they determine to be incomplete or inadequate.
- Remedial action directives also may be issued as necessary to ensure reliability of the bulk power system.

Section B: Registered Entity Information

B.1 Identify your organization:

Company Name: FPL Energy, LLC
Company Address: 700 Universe Blvd
 Juno Beach, FL 33408
NERC Compliance Registry ID *[if known]*: NCR01243

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

Name: Benjamin Church
Title: Director, Reliability & Compliance
Email: benjamin.church@fpl.com
Phone: 561-304-5463



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

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

C.1 Standard: 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]	SERC Violation ID # [if known]	Requirement Violated (e.g. R3.2)	Violation Date ^(*)
SERC200810005	2008-007	R1	6/18/07
SERC200810006	2008-007	R2	6/18/07

(*) Note: The Violation Date shall be: (i) the date that the violation occurred; (ii) the date that the violation was self-reported; or (iii) the date that the violation has been deemed to have occurred on by SERC. Questions regarding the date to use should be directed to SERC.

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

DC Control Circuitry, Instrument Transformers, and Station Batteries were not included in FPL Energy's Protection System Maintenance and Testing program document and the procedural documents did not include testing intervals and the basis for these components. Sufficient evidence was not provided to demonstrate that instrument transformers had been tested.

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

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

ATTACHMENT A-2



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



Section D: Details of Proposed Mitigation Plan

Mitigation Plan Contents

D.1 Identify and describe the action plan, including specific tasks and actions that your organization is proposing to undertake, or which it undertook if this Mitigation Plan has been completed, to correct the violations identified above in Part C.2 of this form:

PRC 005-1 R1 will be mitigated with the following corrective actions.

1. Corrective Action 1: (PRC-005-1 R1.1) Update current program document *Protective Relay Coordination, Configuration, and Maintenance*.
 - Include within scope of maintenance and testing the following elements supporting generator protection schemes:
 - DC Control Circuitry
 - Instrument Transformers
 - Station Batteries
 - Communication Systems
 - Provide a technical basis for stated intervals. Basis to include manufacturer recommendations, operating experience / conditions, and reference works from industry bodies including but not limited to IEEE, NERC and/or Regional Entities.
 - Include in table format a detailed representation of the frequency of maintenance and testing activities for each of the components current listed in the program document and noted above for inclusion.
2. Corrective Action 2: (PRC-005-1 R1.2) Update current program document *Protective Relay Coordination, Configuration, and Maintenance*.
 - Create a "Procedure Summary Section" with a brief overview of the procedures that support the maintenance



and testing of each of the components currently in the program document or noted above for inclusion.

- Procedure Summary Section will cross reference and provide hyperlinks to relevant intranet locations where procedures are stored for fast access.
- At a minimum the following procedures will be summarized and cross-referenced:
 - Station Battery Preventative Maintenance
 - Station Battery Discharge Test
 - *Maintenance and Testing of Substation Equipment* (includes DC Control Circuitry, Relays, Instrument Transformers)
 - *Protective Relay Maintenance, Calibration and Testing* (includes DC Control Circuitry, Relays, Instrument Transformers)

PRC 005-1 R2 will be mitigated with the following corrective actions.

3. Corrective Action #3: (PRC-005-1 R2.1) Collect commissioning records as evidence of Instrument Transformers testing
 - Create inventory of all instrument transformers relevant to generator Protection Systems
 - Collect commissioning records and store electronically for future use
4. Corrective Action #4: (PRC-005-1 R2.1) Conduct tests of the communication systems at Calhoun generating station.
 - Perform a functional test of the communication systems and associated protection elements for the transfer trip scheme between host transmission operator and plant
 - Schedule functional test for next available outage, but no later than November 4th, 2008
 - Collect documentation of test and provide as evidence of completion

ATTACHMENT A-2



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



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

Mitigation Plan Timeline and Milestones

D.2 Provide the timetable for completion of the Mitigation Plan, including the completion date by which the Mitigation Plan will be fully implemented and the violations associated with this Mitigation Plan are corrected: Corrective Actions 1-3 are complete. Corrective Action #4 will be completed no later than 11/04/08.

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

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

Milestone Activity	Proposed Completion Date* (updates shall not be more than 3 months apart)
Corrective Action #1	Complete
Corrective Action #2	Complete
Corrective Action #3	Complete
Corrective Action #4	11/04/08

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



Additional Relevant Information (Optional)

- D.4 If you have any relevant additional information that you wish to include regarding the mitigation plan, milestones, milestones dates and completion date proposed above you may include it here:

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

Section E: Interim and Future Reliability Risk

Check this box ☐ and proceed and respond to Part E.2 and E.3, below, if this Mitigation Plan, as set forth in Part D.1, has already been completed.

Abatement of Interim BPS Reliability Risk

- E.1 While your organization is implementing the Mitigation Plan proposed in Part D of this form, the reliability of the Bulk Power System may remain at higher risk or be otherwise negatively impacted until the plan is successfully completed. To the extent they are, or may be, known or anticipated: (i) identify any such risks or impacts; and (ii) discuss any actions that your organization is planning to take or is proposing as part of the Mitigation Plan to mitigate any increased risk to the reliability of the bulk power system while the Mitigation Plan is being implemented:

FPL Energy does not anticipate any increased risk to the Bulk Electric System in the interim between the present and the completion of the Mitigation Plan. The only outstanding activities are those detailed in Corrective Action #4 including the testing of its Communication aided blocking and tripping. Work has been scheduled and will be complete no later than 11/4/08, and was previously completed between October 2007 and April 2008.

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

Prevention of Future BPS Reliability Risk



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

Identifying commissioning records with instrument transformer testing records will ensure that that protection system components were evaluated and operate in a manner that promote reliability of the bulk electric system. Updating policies and procedures ensure that future activities are performance to acceptable standards.

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

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

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

Continued on Next Page

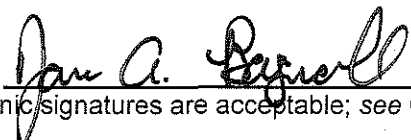


Section F: Authorization

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 SERC for acceptance by SERC 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 Senior Director, Transmission and Reliability & Compliance of FPL Energy, LLC.
 2. I am qualified to sign this Mitigation Plan on behalf of FPL Energy, LLC.
 3. I have read and understand FPL Energy, LLC obligations to comply with Mitigation Plan requirements and ERO remedial action directives as well as ERO documents, including, but not limited to, the NERC Rules of Procedure, including Appendix 4(C) (Compliance Monitoring and Enforcement Program of the North American Electric Reliability Corporation" (NERC CMEP)).
 4. I have read and am familiar with the contents of the foregoing Mitigation Plan.
 5. FPL Energy, LLC agrees to be bound by, and comply with, the Mitigation Plan, including the timetable completion date, as approved by SERC and approved by NERC.

Authorized Individual Signature


 (Electronic signatures are acceptable; see CMEP)

Name (Print): Jan Bagnall

Title: Senior Director, Transmission and Reliability & Compliance

Date: 9/25/2008



Section G: Comments and Additional Information

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

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

Submittal Instructions:

Please convert the completed and signed document to an Adobe .pdf document using the following naming convention:

[(MP Entity Name (STD-XXX) MM-DD-YY.pdf)]

Email the pdf file to serccomply@serc1.org.

Please direct any questions regarding completion of this form to:

Ken Keels
Manager, Compliance Enforcement
SERC Reliability Corporation
704-357-7372
kkeels@serc1.org

Attachment c

**FPL Energy, LLC's Certifications of Completion
of the
Mitigation Plans**



FPL Energy

An FPL Group Company

Certification of a Completed Mitigation Plan

SERC Reliability Corporation Violation Mitigation Plan Closure Form (Form Revised 8-28-07)

Name of registered entity submitting certification: FPL Energy, LLC.

Date of Certification: September 24, 2007

Name of Standard and the Requirement of which a violation was mitigated: CIP-001-1

Date of completion of the mitigation plan: September 21, 2007

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

Name: Juan R Villar
Title: Director Compliance
Entity: FPL Energy, LLC.
Email: juan_r_villar@fpl.com
Phone: (561) 694-3472

Executive Signature

A handwritten signature in black ink, appearing to be 'JR Villar', written over a horizontal line.

Date

9/24/07



FPL Energy

An FPL Group Company

To Close Out a Completed Mitigation Plan, fill out this form, save it as a text searchable pdf file or MS Word file, and email it to serccomply@serc1.org. Note that electronic signatures are acceptable.

All Mitigation Plan Completion Certification submittals shall include data or information sufficient for SERC to verify completion of the Mitigation Plan. SERC may request such additional data or information and conduct follow-up assessments, on-site or other Spot Checking, or Compliance Audits as it deems necessary to verify that all required actions in the Mitigation Plan have been completed and the Registered Entity is in compliance with the subject Reliability Standard. (CMEP Section 6.6) Data or information submitted may become part of a public record upon final disposition of the possible violation, therefore any confidential information contained therein should be marked as such in accordance with the provisions of Section 1500 of the NERC Rules of Procedure.

Certification of a Completed Mitigation Plan

SERC Reliability Corporation Violation Mitigation Plan Closure Form

Name of Registered Entity submitting certification: FPL Energy, LLC

Date of Certification: 10/6/08

Name of Standard and the Requirement(s) of mitigated violation(s): CIP 001 R1 & R2

SERC Tracking Number (contact SERC if not known): 2008-008

NERC Violation ID Number (if assigned): SERC200810007, SERC200810008

Date of completion of the Mitigation Plan: 10/1/08

Summary of all actions described in Part D of the relevant mitigation plan:

FPL Energy will mitigate violations associated with CIP-001-1 R1 and R2 by updating its procedures to include a means of identifying sabotage, communicating sabotage event information to plant personnel, and communicating sabotage event information to appropriate parties in the interconnection.



FPL Energy

An FPL Group Company

Description of the information provided to SERC for their evaluation: Attached are copies of the procedures developed as per the corrective actions stated in the Mitigation Plan.

I certify that the mitigation plan for the above-named violation has been completed on the date shown above. In doing so, I certify that all required mitigation plan actions described in Part D of the relevant mitigation plan have been completed, compliance has been restored, the above-named entity is currently compliant with all of the requirements of the referenced standard, and that all information submitted information is complete and correct to the best of my knowledge.

Name: Jan Bagnall

Title: Senior Director, Transmission and Reliability & Compliance

Entity: FPL Energy, LLC

Email: jan.bagnall@fpl.com

Phone: 561-304-6159

Designated Signature _____/s/ Jan Bagnall  Date 10/6/08

[NOTE – Closure Form should be signed by same individual that signed Mitigation Plan]

(Form Revised August 13, 2008)



FPL Energy

FPL Energy, 700 Universe Blvd., Juno Beach, FL 33408

To Close Out a Completed Mitigation Plan, fill out this form, save it as a text searchable pdf file or MS Word file, and email it to serccomply@serc1.org. Note that electronic signatures are acceptable.

All Mitigation Plan Completion Certification submittals shall include data or information sufficient for SERC to verify completion of the Mitigation Plan. SERC may request such additional data or information and conduct follow-up assessments, on-site or other Spot Checking, or Compliance Audits as it deems necessary to verify that all required actions in the Mitigation Plan have been completed and the Registered Entity is in compliance with the subject Reliability Standard. (CMEP Section 6.6) Data or information submitted may become part of a public record upon final disposition of the possible violation, therefore any confidential information contained therein should be marked as such in accordance with the provisions of Section 1500 of the NERC Rules of Procedure.

Certification of a Completed Mitigation Plan

SERC Reliability Corporation Violation Mitigation Plan Closure Form

Name of Registered Entity submitting certification: FPL Energy, LLC

Date of Certification: 11/03/2008

Name of Standard and the Requirement(s) of mitigated violation(s): PRC 005 R1 & R2

SERC Tracking Number (contact SERC if not known): 2008-007

NERC Violation ID Number (if assigned): SERC200810005, SERC200810006

Date of completion of the Mitigation Plan: 11/03/2008

Summary of all actions described in Part D of the relevant mitigation plan:

FPL Energy will mitigate violations associated with PRC-005-1 R1 by updating its protection system maintenance and testing program document to include additional components requested by SERC, procedures associated with maintenance and testing work will be summarized, and the basis for intervals will be clarified to include specific industry documents, manufacturer recommendations, and operational experience.



FPL Energy

FPL Energy will mitigate violations associated with PRC-005-1 R2 by collecting and retaining maintenance and test records associated with the additional components requested by SERC. Records will include commissioning records and maintenance and test reports.

Description of the information provided to SERC for their evaluation:

Attached are copies of the protection system maintenance and testing program document, the procedures associated with maintenance and testing work, and test records as per the corrective actions stated in the Mitigation Plan. **All information and documents submitted/attached hereto are deemed to be confidential.**

I certify that the mitigation plan for the above-named violation has been completed on the date shown above. In doing so, I certify that all required mitigation plan actions described in Part D of the relevant mitigation plan have been completed, compliance has been restored, the above-named entity is currently compliant with all of the requirements of the referenced standard, and that all information submitted information is complete and correct to the best of my knowledge.

Name: Jan Bagnall

Title: Senior Director, Transmission and Reliability & Compliance

Entity: FPL Energy, LLC

Email: jan.bagnall@fpl.com

Phone: 561-304-6159

Designated Signature _____ /s/ Jan Bagnall

Date 11/03/2008

[NOTE – Closure Form should be signed by same individual that signed Mitigation Plan]

(Form Revised August 13, 2008)

Attachment d

SERC Reliability Corporation's Statements of Verification

Statement of SERC Reliability Corporation Compliance Staff Regarding Completion of Mitigation Plan

Registered Entity:	FPL Energy, LLC
SERC Tracking ID:	08-008
NERC Violation No:	SERC200810007,10008,10009
NERC Mitigation Plan ID:	MIT-07-1071
Standard:	CIP-001-1
Requirement(s):	R1, R2, R4 (R3 had been mitigated under an earlier Mitigation Plan MP-2007-001795. See discussion below)

Violation Summary:

A scheduled compliance audit of FPL Energy on February 11, 2008 through February 13, 2008, and a follow-up site visit by SERC Compliance Enforcement Staff on April 3, 2008, determined that FPL Energy was, and continued to be, in violation of CIP-001-1, Requirements R1, R2 and R4. FPL Energy's sabotage response program lacked procedures for identifying sabotage and for making its operating personnel aware of sabotage events on its facilities and multi-site sabotage affecting larger portions of the Interconnection. This is a violation of R1. FPL Energy's sabotage response program lacked procedures for the communication of information concerning sabotage events to appropriate parties in the Interconnection. This is a violation of R2. The audit team did review evidence, and SERC staff confirmed, that FPL Energy was in compliance with R3 at the time of the audit. Evidence related to R4 reviewed during and after the April 4, 2008 follow-up site visit, and the submission by FPL Energy of an affidavit affirming communications with the local FBI office, were deemed by SERC Compliance Enforcement Staff to constitute sufficient evidence of compliance with R4.

This violation incorporates and supersedes FPL Energy's June, 2007 self-reported violation of CIP-001-1 (prior SERC Tracking No 07-045) because FPL Energy failed to remedy the violations with respect to R1, R2 and R4 in accordance with the mitigation plan that was accepted by SERC and approved by NERC. The Mitigation Plan was certified by FPL Energy on September 24, 2007 as being completed on September 21, 2007. However, FPL Energy did not submit any accompanying evidence (data or information), as required, to allow SERC to verify completion. Sufficient evidence to verify completion and compliance with the subject Reliability Standard had not been presented to SERC, despite repeated requests by SERC for such supporting evidence. FPL Energy failed to fully demonstrate completion of all required mitigation plan actions and compliance with the subject Reliability Standard and is therefore subject to the imposition of associated penalties.

A Severe VSL is assigned because of FPL Energy's failure to complete its previous mitigation plan in accordance with its terms and due to FPL Energy's repeated failure to provide evidence supporting mitigation plan closure upon request by SERC.

Mitigation Plan Summary:

FPL Energy's Mitigation Plan to address the referenced violations of CIP-001-1 R1, R2 and R4 was submitted on June 25, 2008 and was accepted by SERC on October 2, 2008 and approved by NERC on October 20, 2008. The Mitigation Plan is identified MIT-07-1071 and was submitted as non-public information to FERC on October 20, 2008 in accordance with FERC orders.

Prior to June 18, 2007 FPL Energy had self-reported a violation of R1, R2, R3, and R4 and certified the completion of a mitigation plan (MP-2007-001795) that was submitted in response to that self-report. However, FPL Energy had not submitted sufficient evidence for SERC to verify timely completion of Mitigation Plan MP-2007-001795 by the time of the scheduled compliance audit on February 11, 2008. During the audit, the audit team verified that FPL Energy had sufficiently completed its Mitigation Plan MP-2007-001795 only with respect to R3. However, FPL Energy's evidence supporting compliance with R1, R2 and R4 was deficient, therefore the audit team identified the new, post June 18th possible violations of R1, R2 and R4, which are addressed by the subject Mitigation Plan (MIT-07-1071).

In the subject mitigation plan, FPL Energy's procedure will be revised to include a definition of sabotage and will provide more specific guidance concerning the communications that needs to occur both inside and outside of the organization. The continued maintenance of this procedure will prevent recurrence of a violation of the Reliability Standard.

SERC's Monitoring of Registered FPL Energy's Mitigation Plan Progress:

SERC Reliability Corporation Compliance Staff ("SERC Staff") monitors the Registered Entity's progress towards completion of its Mitigation Plans in accordance with Section 6.0 of the uniform Compliance Monitoring and Enforcement Program, ("CMEP"). Pursuant to the CMEP, Registered Entities are required to establish implementation milestones no more than three (3) months apart. SERC Staff solicits quarterly reports from all Registered Entities with open mitigation plans to monitor the progress on completion of milestones. SERC Staff also produces and reviews daily Mitigation Plan status reports highlighting Mitigation Plans that are nearing the scheduled completion date. If the Registered Entity fails to complete its Mitigation Plan according to schedule, appropriate additional enforcement action is initiated to assure compliance is attained.

Mitigation Plan Completion Review Process:

FPL Energy certified on October 6, 2008 that the subject Mitigation Plan was completed on October 1, 2008. A SERC compliance staff member reviewed the evidence submitted in a manner similar to a compliance audit. That action was followed by another compliance staff member's peer review of the initial conclusion.

Evidence Reviewed:

FPL Energy submitted and SERC Staff reviewed the following evidence in support of its certification that its Mitigation Plan was completed in accordance with its terms:

Three plant-specific Emergency – FPLE Sabotage Reporting Procedures (filenames PCK-EMER-SAB-001.doc CLH-EMER-SAB-001.doc and PDW-EMER-SAB-001.doc) were reviewed and found to include:

- *A description of what FPLE considers to be a sabotage event,*
- *Communications that should occur in the event of a sabotage event both internally and externally including the Fleet Performance and Diagnostic Center (FPDC).*
- *Instructions for the FPDC to contact the reliability coordinator, transmission operator and marketer. (These steps were confirmed to exist in the FPDC's procedures.)*
- *Instructions for Corporate Security to contact the FBI (it was learned during the audit that Corporate Security had the phone numbers to contact the appropriate FBI office.)*

Conclusion:

On October 16, 2008 SERC Reliability Corporation Compliance Staff ("SERC Staff") completed its review of the evidence submitted by FPL Energy in support of its Certification of Completion of the subject Mitigation Plan. Based on its review of the evidence submitted, SERC Staff verifies that, in its professional judgment, all required actions in the Mitigation Plan have been completed and FPL Energy is in compliance with the subject Reliability Standard Requirements.

This Statement, along with the subject Mitigation Plan, may become part of a public record upon final disposition of the possible violation.

Respectfully Submitted,

John Wolfmeyer

Mike Vastano/Steve Gibe

**Statement of SERC Reliability Corporation Compliance Staff Regarding
Completion of Mitigation Plan**

Registered Entity:	FPL Energy
SERC Tracking ID:	08-007
NERC Violation No:	SERC200810005 and SERC200810006
NERC Mitigation Plan ID:	MIT-07-1070
Standard:	PRC-005
Requirement(s):	R1, R2

Violation Summary: Entity's maintenance and testing procedures do not include a description of the program, nor do the procedures include testing intervals and their bases, for all components of generation Protection Systems required by the Standard. This is a violation of R1. In addition, the entity was unable to produce evidence that all components of generation Protection Systems, as defined by the standard and glossary of terms, had been tested within a defined interval. This is a violation of R2.

A Severe VSL is assigned because of the Entity's failure to complete its previous mitigation plan in accordance with its terms and due to Entity's repeated failure to provide evidence supporting mitigation plan closure upon request by SERC.

Mitigation Plan Summary:

FPL Energy's Mitigation Plan to address the referenced violation was submitted on September 25, 2008 and was accepted by SERC on October 2, 2008 and approved by NERC on October 20, 2008. The Mitigation Plan is identified as MIT-07-1070 and was submitted as non-public information to FERC on October 20, 2008 in accordance with FERC orders.

During the mitigation period, this mitigation plan was neither revised nor was the completion date extended.

PRC 005-1 R1 will be mitigated with the following corrective actions.

1. Update current program document *Protective Relay Coordination, Configuration, and Maintenance*. Document to include all components included in the definition of Protection System. Include in table format a detailed representation of the frequency of maintenance and testing activities for each of the components current listed in the program document. Provide a technical basis for stated intervals

2. Update current program document *Protective Relay Coordination, Configuration, and Maintenance* with a brief overview of the procedures that support the maintenance

PRC 005-1 R2 will be mitigated with the following corrective actions:

1. Collect commissioning records as evidence of Instrument Transformers testing
2. Create inventory of all instrument transformers relevant to generator Protection Systems
3. Collect commissioning records and store electronically for future use
4. Conduct tests of the communication systems at Calhoun generating station. Perform a functional test of the communication systems and associated protection elements for the transfer trip scheme between host transmission operator and plant
5. Collect documentation of test and provide as evidence of completion

SERC's Monitoring of Registered Entity's Mitigation Plan Progress:

SERC Reliability Corporation Compliance Staff ('SERC Staff') monitors the Registered Entity's progress towards completion of its Mitigation Plans in accordance with Section 6.0 of the uniform Compliance Monitoring and Enforcement Program, ('CMEP'). Pursuant to the CMEP, Registered Entities are required to establish implementation milestones no more than three (3) months apart. SERC Staff solicits quarterly reports from all Registered Entities with open mitigation plans to monitor the progress on completion of milestones. SERC Staff also produces and reviews daily Mitigation Plan status reports highlighting Mitigation Plans that are nearing the scheduled completion date. If the Registered Entity fails to complete its Mitigation Plan according to schedule, appropriate additional enforcement action is initiated to assure compliance is attained.

Mitigation Plan Completion Review Process:

FPL Energy certified on November 3, 2008 that the subject Mitigation Plan was completed on November 3, 2008. A SERC compliance staff member reviewed the evidence submitted in a manner similar to a compliance audit. That action was followed by another compliance staff member's peer review of the initial conclusion.

Evidence Reviewed:

FPL Energy submitted, and SERC Staff reviewed, a large amount of evidence in support of its certification that its Mitigation Plan was completed in accordance with its terms and to verify that FPL Energy was in compliance with PRC-005 R1 and R2. The following are examples of the evidence reviewed:

Procedure Summary Table in Generation Protection System Maintenance and Testing Document dated 10/10/08 : Pages 3 and 4 provide the summary of maintenance and

testing procedures, the intervals and their bases for all components defined as part of the Protection System.

Calhoun: 230_321_relay.pdf 10/16/08 provides evidence of maintenance and testing performed within the prescribed seven-year interval.

Calhoun: 230 DTT.pdf 10/16/08 demonstrates that the associated communication systems at Calhoun were tested. This system was found to be the only such communication system in SERC.

An email from APCO, (the maintenance and testing contractor retained by Calhoun plant) dated 09/17/08 verifying relay functional testing was completed on 4/2008.

Cherokee: PCK_Inst_Xfmr_Data.pdf 10/30/08; Calhoun: CLH_Inst_Xfmr_Data.pdf 11/14/02; and Doswell: PDW_Inst_Xfmr_Data.pdf 05/20/91 are evidence of PT and CT testing as described in the Mitigation Plan.

Conclusion:

On January 6, 2009 SERC Reliability Corporation Compliance Staff ('SERC Staff') completed its review of the evidence submitted by FPL Energy in support of its Certification of Completion of the subject Mitigation Plan. Based on its review of the evidence submitted, SERC Staff verifies that, in its professional judgment, all required actions in the Mitigation Plan have been completed and FPL Energy is in compliance with the subject Reliability Standard Requirements for its facilities within the SERC Region.

This Statement, along with the subject Mitigation Plan, may become part of a public record upon final disposition of the possible violation.

Respectfully Submitted,

John Wolfmeyer
Samuel Stryker

Attachment e

Notice of Filing

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

FPL Energy, LLC

Docket No. NP09-____-000

NOTICE OF FILING
(March 31, 2009)

Take notice that on March 31, 2009, the North American Electric Reliability Corporation (NERC), filed a Notice of Penalty regarding FPL Energy, LLC in the SERC Reliability 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