



NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

March 31, 2010

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

**Re: NERC Notice of Penalty regarding NextEra Energy Resources, LLC  
FERC Docket No. NP10-\_-000**

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Notice of Penalty<sup>1</sup> regarding NextEra Energy Resources, LLC (f/k/a FPL Energy, LLC)<sup>2</sup> (“FPLE”),<sup>3</sup> NERC Registry ID NCR02910,<sup>4</sup> 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)).<sup>5</sup>

On February 26, 2008 FPLE self-reported a possible violation of Reliability Standard TOP-002-2 Requirement (R) 14 to Texas Regional Entity (Texas RE) for FPLE’s failure to timely notify Electric Reliability Council of Texas, Inc.’s Independent System Operator (ERCOT ISO) of changes in the status of three of its generating units. This Notice of Penalty is being filed with the Commission because, based on information from Texas RE, Texas RE and FPLE have entered into a Settlement Agreement to resolve all outstanding issues arising from a preliminary and non-public assessment resulting in Texas RE’s determination and findings of the enforceable alleged violation of TOP-002-2 R14. According to the Settlement Agreement, FPLE neither admits nor denies the alleged violation, but has agreed to the proposed penalty of ten thousand

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<sup>1</sup> *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 (2009). *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).

<sup>2</sup> FPL Energy, LLC changed its name to NextEra Energy Resources, LLC on April 24, 2009 but continues to use the FPLE acronym. Footnote 1 in the Settlement Agreement incorrectly states that FPL Energy, LLC changed its name to NextEra Energy Resources, LLC on January 7, 2009.

<sup>3</sup> Also concurrently being filed is a Notice of Penalty designated as NOC-253 regarding a Notice of Confirmed Violation (NOCV) issued by Western Electricity Coordinating Council, in which FPLE does not dispute the proposed thirty thousand dollar (\$30,000) financial penalty to be assessed to FPLE for the alleged violations of FAC-003-1 R1 and R2.

<sup>4</sup> Texas Regional Entity confirmed that FPLE was included on the NERC Compliance Registry on October 4, 2007 as a Generator Operator and a Generator Owner and, as a Generator Operator, is subject to the requirements of the NERC Reliability Standard TOP-002-2.

<sup>5</sup> *See* 18 C.F.R. § 39.7(c)(2).

dollars (\$10,000) to be assessed to FPLE, in addition to other remedies and actions to mitigate the instant violation and facilitate future compliance under the terms and conditions of the Settlement Agreement. Accordingly, the alleged violation identified as NERC Violation Tracking Identification Number TRE200800045 is being filed in accordance with the NERC Rules of Procedure and the CMEP.

### Statement of Findings Underlying the Violation

This Notice of Penalty incorporates the findings and justifications set forth in the Settlement Agreement entered into as of March 5, 2010, by and between Texas RE and FPLE, 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 (\$)
Texas RE	NextEra Energy Resources, LLC	NOC-092	TRE200800045	TOP-002-2	14	Medium <sup>6</sup>	10,000

#### TOP-002-2

The purpose of Reliability Standard TOP-002-2 to recognize that current operations plans and procedures are essential to being prepared for reliable operations, including response for unplanned events.

TOP-002-2 R14 requires a Generator Operator, such as FPLE, without any intentional time delay, to notify its Balancing Authority and Transmission Operator of changes in capabilities and characteristics including but not limited to: R14.1 Changes in real output capabilities. TOP-002-2 R14 has a "Medium" Violation Risk Factor (VRF).

According to the Settlement Agreement, on November 29, 2007, ERCOT ISO experienced an Emergency Electric Curtailment Plan (EECP) Step 1 system event (Adjusted Responsive Reserves below 2,300 MW). Subsequent analysis of the event by Texas RE suggested that FPLE may have had insufficient operating reserves pursuant to the ERCOT Protocols. To investigate further, on January 23, 2008 Texas RE sent FPLE a Request for Information (RFI).

Upon performing an internal review, FPLE discovered a possible violation of TOP-002-2 R14. Accordingly, on February 26, 2008 FPLE submitted a Self-Report to Texas RE, including an *Explanation of Potential Non-Compliance*. In the Self-Report, FPLE stated it experienced

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<sup>6</sup> TOP-002-2 R14 and R14.1 each have a "Medium" Violation Risk Factor (VRF).

changes in output capabilities of its Forney and Lamar generating resources on November 29, 2007, and did not timely and correctly notify the ERCOT ISO. The loss of capabilities was due in part to the loss of a circulating water pump at Forney and a loss of flame during start-up at Lamar,<sup>7</sup> as detailed in FPLE's Self-Report.

After Texas RE verified the facts contained in FPLE's Self-Report utilizing ERCOT ISO operations logs and real-time FPLE supplied resource plans, Texas RE confirmed that an alleged violation of TOP-002-2 R 14 occurred on November 29, 2007 from approximately 02:15 until 24:00. Thereafter, on March 21, 2008, Texas RE sent FPLE a Preliminary Notice of Alleged Violation notifying FPLE that Texas RE compliance staff had determined that there was a sufficient basis for finding that FPLE was not in compliance with TOP-002-2 R14.

Texas RE determined the duration of the alleged violation to be from November 29, 2007, the date FPLE failed to timely notify ERCOT ISO of its changes in real output capability for three of its generating units, through December 12, 2008, when FPLE completed its Mitigation Plan.

#### Regional Entity's Basis for Penalty

Texas RE has assessed a penalty of ten thousand dollars (\$10,000) for the referenced alleged violation. In reaching this determination, Texas RE considered the following factors:

1. FPLE self-reported the violation;
2. although the violation encompassed a brief time period, the system was stressed at the time of the violation;
3. the alleged violation constituted FPLE's first violation of NERC Reliability Standard TOP-002-2 R14 in the Texas RE footprint;
4. no misrepresentation or concealment of facts was evident;
5. , FPLE chose to settle the matter rather than engage in protracted litigation and FPLE had a culture of compliance as discussed in the Settlement Agreement, and
6. the violation had a medium risk of impact but did not create a serious or substantial risk to the BPS because the MW impact from FPLE ranged from 285 MW to 570 MW during the violation time period. At the time the EECF Step 1 event was called by ERCOT ISO, 6:48 a.m., the ERCOT system had approximately 5000 MW of Non-Spin Reserves and approximately 2500 MW of Responsive Reserves. During the time of the EECF Step 1 event, 6:48 a.m. to 8:15 a.m., the maximum MW impact from FPLE was 285 MW. ERCOT's deployment of Non-Spin reserve was sufficient to remedy the EECF Step 1 event and the system timely recovered. EECF Step 1 was terminated at 8:15 a.m.

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<sup>7</sup> Changes in capability on November 29, 2007 included: (1) Lamar CT22 - At 0203 FPLE learned the subject unit was unavailable but did not notify ERCOT ISO until 0716; (2) Lamar ST2 - At 0203 FPLE learned the maximum capacity of the subject unit was reduced by approximately 100 MW for hours ending 0700 – 1100 due to the unavailability of Lamar CT22. FPLE never notified ERCOT ISO of reduced maximum capacity; (3) Forney CT21 - At 0255 FPLE learned the subject unit was unavailable but did not notify ERCOT ISO until 0440; and (4) Forney ST2 - At 0255 FPLE learned the maximum capacity of the subject unit was reduced by approximately 100 MW due to the unavailability of Forney CT21. FPLE never notified ERCOT ISO of reduced maximum capacity.

After consideration of the above factors, Texas RE determined that, in this instance, the penalty amount of ten thousand dollars (\$10,000) is appropriate and bears a reasonable relation to the seriousness and duration of the alleged violation.

### **Status of Mitigation Plan<sup>8</sup>**

FPLE's Mitigation Plan to address its alleged violation of TOP-002-2 R14 was submitted to Texas RE on December 12, 2008, stating that it was completed as of the same date. The Mitigation Plan was accepted by Texas RE on March 19, 2009 and approved by NERC on January 15, 2010. The Mitigation Plan is designated as MIT-07-2263 and was submitted as non-public information to FERC on January 15, 2010, in accordance with FERC orders.

FPLE's Mitigation Plan required the following actions to mitigate the alleged violation and prevent future occurrences:

1. Hire an additional Compliance Manager
  - a. The Compliance Manager to be hired will be dedicated to FPLE's subsidiary, Power Marketing, Inc. (PMI);<sup>9</sup>
  - b. Additional staff will report independent of PMI to the Business Management Group; and
  - c. The Compliance Manager will take on corrective actions contained within the Mitigation Plan as a high priority project.
2. Create *Operations Policy For PMI in ERCOT Market (GOP-001)*
  - a. The policy will be comprehensive to all of PMI but will immediately focus on employees on the Hourly Desk;
  - b. The policy will include instructions for more timely notification to system operators on unit status change and will provide for specific reporting mechanisms to system operators such as recorded voice lines and/or updating resource plans;
  - c. The policy will be divided into the following sections:
    - i) General Items
    - ii) Reliability Responsibilities
    - iii) Planned Resource Outage Coordination
    - iv) Unplanned Resource Outage Coordination
    - v) Resource Deratings
    - vi) Emergency and Short Supply Operation
    - vii) Scheduling Processes
    - viii) Current Day Operations
  - d. The policy will be signed-off by an executive with authority over PMI;
  - e. The policy will include a diagram of workflow and alternate paths for failed process steps. Escalation and communication points will also be included;
  - f. Employees will be required to review and sign-off on their acceptance and understanding of the policy;
  - g. Disciplinary actions will be included in the policy; and

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<sup>8</sup> See 18 C.F.R § 39.7(d)(7).

<sup>9</sup> In the ERCOT system, FPLE's Generator Operator function is carried out by this subsidiary.

- h. Supporting procedures will be cross-referenced.
- 3. Carry out current employee and new hire training and awareness
  - a. *Operations Policy For PMI in ERCOT Market (GOP-001)* will be incorporated into new hire orientation and will be required prior to starting on the Hourly Desk;
  - b. Current employees will be trained during group sessions; and
  - c. Newly hired employees will be trained during new hire orientation and train-the-trainer sessions.

On December 12, 2008, FPLE submitted its Mitigation Plan with its letter certifying completion to Texas RE that its Mitigation Plan was completed on December 12, 2008. As evidence of completion of its Mitigation Plan, Texas RE reviewed the following at FPLE's scheduled on-site compliance audit from February 10, 2009 to February 12, 2009:

- Screen shot of FPLE's organizational chart showing the addition of a Compliance Manager on May 12, 2008;
- Uniform Generation *Operations Policy for PMI in ERCOT Market (GOP-001)* created November 20, 2008;
- Training evidence completed November 20, 2008; and
- Resource plan checking software and process implemented on December 6, 2008.

On February 12, 2009, after reviewing FPLE's submitted evidence, Texas RE verified that FPLE completed its Mitigation Plan and notified FPLE in a letter dated April 2, 2009<sup>10</sup> that it was compliant with TOP-002-2 R14.

### **Statement Describing the Proposed Penalty, Sanction or Enforcement Action Imposed<sup>11</sup>**

#### **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,<sup>12</sup> the NERC BOTCC reviewed the Settlement Agreement and supporting documentation on February 10, 2010. The NERC BOTCC approved the Settlement Agreement, including Texas RE's imposition of a financial penalty of ten thousand dollars (\$10,000) against FPLE and other actions to facilitate future compliance required under the terms and conditions of the Settlement Agreement. In approving the Settlement Agreement, the NERC BOTCC reviewed the applicable requirements of the Commission-approved Reliability Standards and the underlying facts and circumstances of the alleged violation at issue.

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

<sup>10</sup> Texas RE's verification of Mitigation Plan completion identifies an additional alleged violation not addressed herein.

<sup>11</sup> See 18 C.F.R. § 39.7(d)(4).

<sup>12</sup> *North American Electric Reliability Corporation*, "Guidance Order on Reliability Notices of Penalty," 124 FERC ¶ 61,015 (2008).

- the alleged violation is the first incidence of violation of the Requirement at issue, or similar Requirements, by FPLE in the Texas RE region;
- the violation was self-reported;
- Texas RE reported that FPLE was cooperative throughout the enforcement process; and
- the alleged violation did not create a serious or substantial risk to the BPS, as discussed above.

For the foregoing reasons, the NERC BOTCC approves the Settlement Agreement and believes that the proposed penalty of ten thousand dollars (\$10,000) is appropriate for the violation and circumstances in question, and is consistent with NERC's goal to promote and ensure reliability of the bulk power system.

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.

#### **Attachments Included as Part of the Notice of Penalty**

The attachments included as part of this Notice of Penalty are the following documents and material:

- a) Settlement Agreement by and between Texas RE and FPLE executed March 19, 2009, included as Attachment a;
  - i. Texas RE's Request for Information regarding the EECF Step 1 Event of November 29, 2007, included in the Settlement Agreement as Exhibit A;
  - ii. FPLE's Self-Report for the alleged violation of TOP-002-2 R14 dated February 26, 2008, included in the Settlement Agreement as Exhibit B;
  - iii. Summary of FPLE's failure to notify ERCOT ISO of changes in capabilities and characteristics or resources on November 29, 2007, included in the Settlement Agreement as Exhibit C;
  - iv. Preliminary Notice of Alleged Violation dated March 21, 2008, included in the Settlement Agreement as Exhibit D;
  - v. Texas RE's confirmation of settlement discussions dated July 28, 2008, included in the Settlement Agreement as Exhibit E;
  - vi. Texas RE's request for a Mitigation Plan dated September 8, 2008, included in the Settlement Agreement as Exhibit F;
  - vii. FPLE's Mitigation Plan and Certification of Completion of the Mitigation Plan for TOP-002-2 R14 submitted December 12, 2008, included in the Settlement Agreement as Exhibit G; and
- b) Texas RE's Verification of Completion of the Mitigation Plan for TOP-002-2 R14 dated April 2, 2009, included as Attachment b.

**A Form of Notice Suitable for Publication<sup>13</sup>**

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

**Notices and Communications**

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

Gerald W. Cauley\*  
President and Chief Executive Officer  
David N. Cook\*  
Vice President and General Counsel  
North American Electric Reliability Corporation  
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Texas Regional Entity  
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susan.vincent@texasre.org

\*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.

Rashida Caraway\*  
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rashida.caraway@texasre.org

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<sup>13</sup> See 18 C.F.R. § 39.7(d)(6).

## Conclusion

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

Respectfully submitted,

Gerald W. Cauley  
President and Chief Executive Officer  
David N. Cook  
Vice President and General Counsel  
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holly.hawkins@nerc.net

cc: NextEra Energy Resources, LLC  
Texas Regional Entity

Attachments

## **Attachment a**

**Settlement Agreement by and between Texas RE  
and FPLE executed March 5, 2010**

**SETTLEMENT AGREEMENT  
OF  
TEXAS REGIONAL ENTITY  
AND  
NEXTERA ENERGY RESOURCES, LLC (NCR02910)**

**I. INTRODUCTION**

- 1 Texas Regional Entity (Texas RE) and NextEra Energy Resources, LLC (f/k/a FPL Energy, LLC)<sup>1</sup> enter into this Settlement Agreement (Agreement) to resolve all outstanding issues arising from Texas RE's determination and findings, pursuant to the North American Electric Reliability Corporation (NERC) Rules of Procedure, of an alleged violation by NextEra Energy Resources of NERC Reliability Standard TOP-002-2, Requirement 14 (R14). The alleged violation was discovered by NextEra Energy Resources during its review of events that occurred on November 29, 2007. NextEra Energy Resources submitted a Self Report describing the alleged violation on February 26, 2008.

**II. STIPULATION**

2. Facts stipulated herein are solely for the purpose of resolving matters between Texas RE and NextEra Energy Resources associated with the aforementioned alleged violation and do not constitute stipulations or admissions for any other purpose. Texas RE and NextEra Energy Resources hereby stipulate and agree to the following:

**A. Background**

3. NextEra Energy Resources is a subsidiary of FPL Group, Inc. In the ERCOT region, NextEra Energy Resources is the generator owner and operator for various wind generation sites and two natural gas-fueled generation sites. The natural gas-fueled generation sites consist of Forney Energy Center in Kaufman County and Lamar Energy Center in Lamar County. NextEra Energy Resources's headquarters is located in Juno Beach, Florida.
4. NextEra Energy Resources was registered on the NERC Compliance Registry for the Generator Operator (GOP) function on October 4, 2007 and has been continuously registered as such through the date of this Agreement. As a registered GOP, NextEra Energy Resources is subject to the requirements of NERC Reliability Standard TOP-002-2, R14. In ERCOT, these functions are carried out by NextEra Energy Resources's subsidiary, FPL Energy Power Marketing, LLC.
5. On November 29, 2007 Electric Reliability Council of Texas, Inc. (ERCOT ISO) experienced an Emergency Electric Curtailment Plan (EECP) Step 1 system event (Adjusted Responsive Reserves below 2300 MW). Subsequent analysis of the event by Texas RE suggested that NextEra Energy Resources' subsidiaries may have had insufficient operating reserves pursuant to the ERCOT Protocols. To investigate

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<sup>1</sup> FPL Energy, LLC changed its name to NextEra Energy Resources, LLC on January 7, 2009.

further, Texas RE sent NextEra Energy Resources a Request for Information on January 23, 2008. A copy of the letter is attached hereto as Exhibit A.

6. Upon performing an internal review, NextEra Energy Resources discovered a possible violation of NERC Reliability Standard TOP-002-2, R14 – Normal Operations Planning. Accordingly, NextEra Energy Resources submitted a Self Report including an Explanation of Potential Non-Compliance on February 26, 2008. A copy of the letter is attached hereto as Exhibit B. In the Self Report NextEra Energy Resources stated it experienced changes in output capabilities of certain Forney and Lamar generating resources without timely and correctly notifying ERCOT ISO.
7. After Texas RE verified the facts contained in NextEra Energy Resources' Self-Report utilizing ERCOT ISO operations logs and real-time NextEra Energy Resources-supplied resource plans, Texas RE concurred with NextEra Energy Resources' findings and thus determined an alleged violation of TOP-002-2, R14 occurred on November 29, 2007 from approximately 2:15 until 24:00. Exhibit C contains Texas RE's summary of events. Thereafter, Texas RE sent NextEra Energy Resources a Preliminary Notice of Alleged Violation notifying NextEra Energy Resources that Texas RE compliance staff had determined that there was a sufficient basis for finding that NextEra Energy Resources may not have been in compliance with TOP-002-2, R14. A copy of the letter is attached hereto as Exhibit D.
8. TOP-002-2, R14 states that "Generator Operators shall, without any intentional time delay, notify their Balancing Authority and Transmission Operator of changes in capabilities and characteristics including but not limited to (R14.1) changes in real and reactive output capabilities." This requirement has a "Medium" VRF. Texas RE assessed the violation a "Lower" VSL. The basis for Texas RE's assessment is the NERC Violation Severity Level Matrix, as amended. The Matrix provides only for a "Lower" VSL in the event this standard is violated.
9. According to the Base Penalty Table of the NERC Sanction Guidelines, the Electric Reliability Organization (ERO) base penalty range for the alleged violation of TOP-002-2, R14 (a "Medium" VRF with a "Lower" VSL) is \$2,000 to \$30,000. Texas RE has decided to assess a penalty of \$10,000 against NextEra Energy Resources for the alleged violation of Reliability Standard TOP-002-2, R14, based upon the following mitigating factors and reasoning: (a) the impact to the ERCOT BPS was Medium, (b) although the violation encompassed a brief time period, the system was stressed at the time of the violation, (c) the alleged violation is a first time alleged violation, (d) no misrepresentation or concealment of facts was evident, (e) NextEra Energy Resources had an appropriate culture of compliance, and (f) NextEra Energy Resources sought settlement in lieu of protracted litigation.
10. On July 28, 2008 Texas RE sent NextEra Energy Resources a Confirmation of Settlement Discussions letter confirming that NextEra Energy Resources had requested settlement negotiations. A copy of the letter is attached hereto as Exhibit E
11. On September 8, 2008 Texas RE sent a letter to NextEra Energy Resources notifying it of its requirement to submit: (a) a proposed Mitigation Plan to correct the alleged violation, or (b) a description of how such alleged violation has been

corrected by NextEra Energy Resources. A copy of the letter is attached hereto as Exhibit F.

12. On December 12, 2008, NextEra Energy Resources sent a final Mitigation Plan and certification of completion to Texas RE, attached hereto as Exhibit G.

13. On February 12, 2009, Texas RE verified the Mitigation Plan.

### **III. PARTIES' SEPARATE REPRESENTATIONS**

#### **A. Statements of Texas RE and Summary of Findings**

14. During its investigation of NextEra Energy Resources, Texas RE found an alleged violation NERC Reliability Standard TOP-002-2, R14. A summary of findings is attached hereto as Exhibit C. The alleged violation of TOP-002-2, R14 occurred on November 29, 2007 from approximately 2:15 until 24:00 and was issued NERC Violation # TRE200800045.

15. NextEra Energy Resources submitted a final Mitigation Plan on December 12, 2008 and certified that they completed the plan on December 12, 2008. Texas RE finds the plan to be acceptable. Texas RE verified completion of the Mitigation Plan on February 12, 2009.

16. Texas RE agrees that this agreement is in the best interest of the parties and in the best interest of bulk power system reliability.

#### **B. Statements of NextEra Energy Resources**

17. NextEra Energy Resources agrees to the stipulated facts, but neither admits nor denies that they constitute a violation of TOP-002 2, R14. Nonetheless, in view of the costs and risks of litigation, and in the interest of resolving any dispute between Texas RE and itself regarding the acts in question, NextEra Energy Resources agrees to undertake the obligations set forth in this Agreement.

18. NextEra Energy Resources submitted its final Mitigation Plan on December 12, 2008 and certified that it completed the plan on December 12, 2008.

19. NextEra Energy Resources enters into this Settlement Agreement with Texas RE to resolve the violation, and to avoid extended litigation and potential uncertainty regarding the matters described herein, and to effectuate a complete and final resolution of the issues set forth herein. NextEra Energy Resources agrees that this agreement is in the best interest of the parties and in the best interest of maintaining a reliable electric infrastructure.

### **IV. MITIGATING ACTIONS, REMEDIES AND SANCTIONS**

20. NextEra Energy Resources self reported this violation, was cooperative and diligent in resolving the matters herein and submitted an acceptable Mitigation Plan on December 12, 2008. The submitted Mitigation Plan requires completion of three corrective actions: (a) #1: Hire Additional Compliance Manager, (b) #2: Create Operations Policy for Power Marketing Inc. in ERCOT Market (GOP-001), (c) #3: Current Employee and New Hire Training & Awareness. NextEra Energy Resources certified completion of the Mitigation Plan as of December 12, 2008. Texas RE verified NextEra Energy Resources's completion of the Mitigation Plan on February 12, 2009.

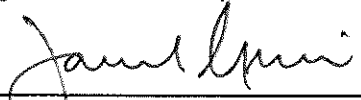
21. Based on the facts and circumstances of the violation of TOP-002-2, R14, Texas RE assesses a penalty of \$10,000 taking into consideration mitigating Sanction Guideline Factors. Mitigating factors include: (a) the impact to the ERCOT BPS was Medium, (b) the alleged violation is a first time alleged violation, (c) no misrepresentation or concealment of facts was evident, (d) NextEra Energy Resources had an appropriate culture of compliance, (e) NextEra Energy Resources was cooperative and self reported the violation, and (f) NextEra Energy Resources sought settlement in lieu of litigation

## V. ADDITIONAL TERMS

22. The signatories to this Agreement agree that they enter into the 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 Texas RE or NextEra Energy Resources has been made to induce the signatories or any other party to enter into the Agreement.
23. Texas RE shall report the terms of all compliance settlements matters to NERC. NERC will review the settlement for the purpose of evaluating its consistency with other settlements entered into for similar alleged violations or under other, similar circumstances. Based on this review, NERC will either approve the settlement or reject the settlement and notify Texas RE and NextEra Energy Resources of changes to the settlement that would result in approval. If NERC rejects the settlement, NERC will provide specific written reasons for such rejection and the Texas RE will attempt to negotiate a revised settlement agreement with NextEra Energy Resources 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 Federal Energy Regulatory Commission ("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. If the Commission rejects the settlement, the enforcement process shall continue to conclusion or as subsequently modified in a manner acceptable to the parties and then approved by NERC and the Commission.
24. This Agreement shall become effective upon the Commission's approval of the Agreement by order or operation of law.
25. NextEra Energy Resources agrees that this Agreement, when approved by NERC and the Commission, shall represent a final settlement of all matters set forth herein and NextEra Energy Resources waives its right to further hearings and appeal, unless and only to the extent that NextEra Energy Resources contends that any NERC or Commission action on the Agreement contains one or more material modifications to the Agreement. Texas RE reserves all rights to initiate enforcement, penalty or sanction actions against NextEra Energy Resources in accordance with the NERC Rules of Procedure in the event that NextEra Energy Resources fails to comply with the Mitigation Plan agreed to in this Agreement. In the event NextEra Energy Resources fails to comply with any of the stipulations, remedies, sanctions or additional terms, as set forth in this Agreement, Texas RE will initiate enforcement, penalty, or sanction actions against NextEra Energy Resources to the maximum extent allowed by the NERC Rules of Procedure, up to the maximum statutorily allowed penalty. NextEra Energy Resources shall retain all rights to defend against such enforcement actions, also according to the NERC Rules of Procedure.

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

Agreed to and accepted:

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

3/5/10  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Silvia Parada-Mitchell  
Director, Reliability Standards Compliance  
FPL Group, Inc.

3/2/10  
\_\_\_\_\_  
Date

# Exhibit A

## Request for Information

January 23, 2008

FPL ENERGY, LLC  
Orlando Brandon  
700 Universe Blvd  
Juno Beach, FL 33408

Re: EECP Step 1 Event of November 29, 2007 Request for Information

Dear Mr. Brandon

The Texas Regional Entity (Texas RE) is investigating a system event on November 29, 2007 and requests more information from your QSE.

On November 29, 2007 at 06:48 EECP Step 1 was implemented. ERCOT ISO data indicates that your QSE had insufficient capacity at some time during this EECP event to meet all of your obligations. For your information, we have attached the data we have for your QSE.

ERCOT ISO declared an alert at 06:28 and EECP Step 1 at 06:48. Please provide Texas Regional Entity with the following information:

1. a detailed analysis of your ability to meet your schedule, up-balancing bid, and ancillary services during the time frame of 06:30 through 07:45;
2. a description of your actions when the alert was issued; and
3. a description of your actions when EECP Step 1 was issued.

The Texas RE requires your response to this notice within five (5) business days. Please return your response and any supporting documents to [Robert.Collins@TexasRE.org](mailto:Robert.Collins@TexasRE.org).

Sincerely,

Robert Collins  
Compliance Engineer/Analyst III  
Compliance Group  
Texas Regional Entity  
(512) 225-7036  
Email: [Robert.Collins@TexasRE.org](mailto:Robert.Collins@TexasRE.org)

cc: Larry Grimm -Texas RE  
Mark Henry – Texas RE  
Lane Robinson – Texas RE  
Susan Vincent – Texas RE

Data provided by ERCOT ISO:

\*\*Note that these numbers are 15-minute average data from PI for the Interval Ending mentioned in Column D

\*\*Note that when Up Regulation Deployed is less than zero, we are in down reg, so that term is set to zero in the calculation in Column K.

\*\*Note that when Non-Spin is deployed, subtract on-line NSRS, but when it is not, we leave that variable out of the calculation in Column K.

Event Date	Event Time	QSE	Interval Ending	Spinning	Responsive Reserve		Up Regulation		Non-Spin from On-Line Units	Capacity Sufficiency
					Obligation	Deployed	Awarded	Deployed		Spinning - Obligations + Deployments
11/29/2007	6:48 AM	FPL	6:30	7.47	70.00	0.00	195.00	114.54	0.00	-142.99
			6:45	0.00	70.00	2.94	195.00	114.19	0.00	-147.88
			7:00	126.53	70.00	0.00	195.00	98.02	0.00	-40.45
			7:15	80.67	70.00	0.00	192.01	14.43	0.00	-166.91
			7:30	106.99	70.00	0.00	192.00	-88.81	0.00	-155.01
			7:45	118.20	70.00	0.00	192.00	-139.52	0.00	-143.80

# Exhibit B



February 26, 2008

Larry Grimm  
Chief Compliance Officer  
Texas Regional Entity  
7620 Metro Center Drive  
Austin, TX 78744

Re: FPL Energy, LLC. SelfReport TOP 002-2 R14

Dear Mr. Grimm,

FPL Energy, LLC (FPL Energy) is filing a self-report with regards to possible deficiencies with our adherence to TOP 002-2 Requirement 14. FPL Energy Power Marketing, Inc. as the FPLQSE, was asked through a "Request for Information" dated January 23, 2008 to provide clarification as to events occurring on November 29, 2007. Although the information sought in the RFI focused solely on actions taken by the FPLQSE between 0630 and 0800 on November 29, 2007, FPL Energy performed an internal review of all events affecting the FPLQSE leading up to the EECF Step 1 Event of November 29, 2007. The results of this investigation are contained in the attached self-report.

We appreciate your time in speaking with representatives from our Compliance and Regulatory Affairs groups on February 25, 2008. FPL Energy strives to maintain the highest level of compliance through its Reliability and Compliance Group which manages of compliance to NERC Reliability Standards and ERCOT Protocols.

Thank you for working with us on this matter. We look forward to resolving any possible issues that may arise in the future.

Sincerely,

TJ Tuscai  
Chief Operating Officer  
FPL Energy, LLC

## ERCOT Region- NERC 2007 Approved Reliability Standards Self-Reporting

Instructions: This form is intended for NERC Registered Entities to self-report the 83 reliability standards approved for 2007. Please fill in General Information in Part 1. In Part 2, list the NERC Standards Numbers and Requirement Numbers for the NERC Standards that are **not** in compliance at this time. Please complete the "Explanation on Non-Compliance" Column for those NERC standards. Email completed forms to: [TREselfreporting@ercot.com](mailto:TREselfreporting@ercot.com)

### PART 1 - GENERAL INFORMATION

Date: February 26, 2008

Company Name: FPL Energy, LLC.

Contact Person: Benjamin Church

Contact Number: 561-304-5463      Contact Email: benjamin\_church@fpl.com

### PART 2 - APPROVED NERC RELIABILITY STANDARDS SELF-REPORTING

NERC Standard Number	Requirement Number	Explanation of Non-Compliance
TOP-002-2	R14	FPL Energy may have violated TOP-002-2, R14 on November 29, 2007. This requires Generator Operators to notify their Balancing Authority and Transmission Operator of resource capability and characteristic changes without any intentional delay. We read this Standard as being consistent with Section 5.5.1 of the ERCOT protocols, which requires a QSE to "report any changes in Resources status to ERCOT in the Resource Plan by the beginning of the next hour following the change in status." FPL Energy was asked through a "Request for Information" to provide clarification as to events occurring on November 29, 2007. Based on this RFI, FPL Energy performed an internal review, which among other things resulted in our identification of a possible NERC Reliability Standard violation. The results of this investigation are contained in this self-report.

NERC Standard Number	Requirement Number	Explanation of Non-Compliance
		<p>On November 29, 2007, at 0255, FPLQSE was notified by FPLE Forney that a circulating water pump failed on Forney Block 2, which made GT21 unavailable and also removed 100 MW of duct burner capability from the remaining units due to steam flow limitations. FPLQSE submitted an updated Resource Plan, albeit with errors, at 0440. Also on November 29, 2007, at 0203, FPLQSE was informed by Lamar that CT21 and CT22 would miss their first hour. FPLQSE stayed in close contact with the plant, and ultimately CT21 did not miss its first hour. Subsequent discussions with the plant confirmed that CT22 would have a late start, and ultimately CT22 tripped during startup at 0608 due to a loss of flame. FPLQSE submitted an updated Resource Plan, albeit with errors, at 0616. The submittals of the revised Resource Plans at 0440 and 0616 would appear to be inconsistent with Section 5.5.1 of the ERCOT protocols. If a violation of an ERCOT protocol has occurred there may be a violation of TOP-002-2 R14.</p>

# Exhibit C

Summary of GOPs (FPLEs) failure to notify BA (ERCOT ISO) of changes in capabilities and characteristics of resources on November 29, 2007.

I. Lamar CT22

At 0203 FPLE learned the subject unit was unavailable but did not notify ERCOT ISO until 0716.

II. Lamar ST2

At 0203 FPLE learned the maximum capacity of the subject unit was reduced by approximately 100 MW for hours ending 0700 – 1100 due to the unavailability of Lamar CT22. FPLE never notified ERCOT ISO of reduced maximum capacity.

III. Forney CT21

At 0255 FPLE learned the subject unit was unavailable but did not notify ERCOT ISO until 0440.

IV. Forney ST2

At 0255 FPLE learned the maximum capacity of the subject unit was reduced by approximately 100 MW due to the unavailability of Forney CT21. FPLE never notified ERCOT ISO of reduced maximum capacity.

# Exhibit D

Benjamin Church  
FPL Energy, LLC  
700 Universe Boulevard  
Juno Beach, FL 33408  
[benjamin\\_church@fpl.com](mailto:benjamin_church@fpl.com)

VIA E-MAIL

Re: Preliminary Notice of Alleged Violation  
FPL Energy, LLC (FPL Energy) NERC ID# NCR02910  
Tracking Number: TRE200800045

Dear Mr. Church,

This letter is to notify you that Texas Regional Entity (Texas RE) Compliance Staff has initiated a formal assessment to determine FPL Energy's compliance with respect to the NERC Reliability Standards applicable to entities registered as a Generator Operator (GOP) under the NERC Compliance Registry. As a result of Texas RE's findings in an self-report dated February 26, 2008, Texas RE has determined there is a sufficient basis for finding that FPL Energy may not be or may not have been in compliance with the following Reliability Standard Requirements: TOP-002-2, R14 as indicated in Attachment A.

This letter serves as official notice to preserve all documentation pertaining to the violation. Documentation includes, but is not limited to — operator logs, recorded voice communications, e-mail and written correspondence, work orders, inspection records, patrol records, budget information, and any other documents that may be directly or indirectly related to the alleged violation(s).

Texas RE will notify you of its conclusions at the completion of review of the potential alleged violation. After review, Texas RE may conclude that there is insufficient basis to pursue the matter further at this time or may conclude sufficient basis does exist to pursue the matter further with a Notice of Alleged Violation and Proposed Penalty or Sanction (NAVPS) that sets forth Texas RE's conclusions and your response options.

Texas RE appreciates your cooperation in advance and looks forward to resolving this matter in the interests of promoting the reliability of the Bulk-Power System. If you have not already done so, Texas RE encourages you to review the circumstances of the subject issue(s) and submit mitigation plan(s) if you deem appropriate. Mitigation plan

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forms and instructions are available at the following address:  
[http://www.ercot.com/mktrules/compliance/tre/enforcement/form/Mitigation%20Plan%20Version%2001\\_07.doc](http://www.ercot.com/mktrules/compliance/tre/enforcement/form/Mitigation%20Plan%20Version%2001_07.doc). Please note that mitigation plan submittal does not constitute an admission a violation has occurred nor does it waive your right to contest a NAVPS, if and when it is delivered.

Settlement negotiations may occur at any time after this notice and prior to the issuance of a notice of Alleged Violation and Proposed Penalty or Sanction and until such time a Notice of Penalty is filed with the Federal Energy Regulatory Commission ("Commission") or Applicable Governmental Authority by NERC.

As required by the NERC Rules of Procedure and NERC Compliance Monitoring and Enforcement Program, the information in this notice will be provided on a non-public basis to the Commission or Applicable Governmental Authority. The information regarding the possible noncompliance(s) or violation(s) will not be made public unless and until a violation is confirmed.

Please include the Texas RE tracking numbers indicated above in any correspondence to Texas RE regarding this matter. If you have any questions, please feel free to contact Mark Henry at (512) 225-7021 or via e-mail at [Mark.Henry@TexasRE.org](mailto:Mark.Henry@TexasRE.org).

Respectfully submitted,

Mark Henry  
Texas Regional Entity  
Texas RE Manager, Compliance Review & Verification

cc: Larry Grimm – Texas RE Chief Compliance Officer  
Susan Vincent – Texas RE, Director of Legal Affairs  
Bob Collins – Texas RE  
Kent Grammer – Texas RE  
Jeff Whitmer – Texas RE  
Brent Torgrimson – Texas RE

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## **Attachment A**

Date or Period of Alleged Violation	Registered Entity	Reliability Standard(s)	Requirement(s)	Method or Source of Alleged Violation
11-29-07	FPL Energy	TOP-002-2	14	Self-Reporting

### **Standard TOP-002-2**

#### **Normal Operations Planning**

**R14..** Generator Operators shall, without any intentional time delay, notify their Balancing Authority and Transmission Operator of changes in capabilities and characteristics including but not limited to:

**R14.1.** **Changes in real output capabilities. (Effective August 1, 2007)**

# Exhibit E

## Confirmation of Settlement Discussions

July 28, 2008

FPL Energy, LLC  
Benjamin Church  
700 Universe Boulevard  
Juno Beach, FL 33408

Re: Confirmation of Settlement Discussions

Texas Regional Entity (Texas RE) received a request for settlement discussions from FPL Energy, LLC regarding Violation Number TRE200700045. A notice of settlement discussions will be submitted to NERC. Please be advised that during the settlement discussions FPL Energy, LLC must continue to preserve all relevant documents.

In pursuit of a possible settlement, FPL Energy, LLC must designate an individual(s) authorized to negotiate on your behalf. Please provide the name(s) and contact information of the designated individual(s) to Mark Henry at [mark.henry@texasre.org](mailto:mark.henry@texasre.org)

We look forward to discussing potential settlement with you further. Please contact me if you have any questions or need additional information

Respectfully submitted,

Mark Henry  
Texas Regional Entity  
Manager, Compliance Review and Verification  
(512) 225-7021  
Email: [mark.henry@texasre.org](mailto:mark.henry@texasre.org)

cc: Larry Grimm – Texas RE  
Victor Barry – Texas RE  
Susan Vincent – Texas RE  
Jeff Whitmer – Texas RE

# Exhibit F

September 8, 2008

Matt Palowski, Primary Compliance Contact  
FPL Energy, LLC  
700 Universe Blvd. FEX/JB  
Juno Beach, FL 33408

RE: Mitigation Plan Notification – NERC ID#NCR02910

Violation Tracking Number:  
TRE2008000045

Please be advised that, pursuant to Section 6.1 of the Uniform Compliance Monitoring & Enforcement Program (CMEP), FPL Energy, LLC is required to submit to Texas Regional Entity (Texas RE) either (a) a proposed mitigation plan to correct the Alleged Violations set forth in the March 21, 2008 Preliminary Notice of Alleged Violation (a copy of which is attached hereto for convenience) or (b) a description of how all such Alleged Violations have been corrected by FPL Energy, LLC. Please send the mitigation plan or description of how the above referenced violation has been corrected to [mitigation@texasre.org](mailto:mitigation@texasre.org) by close of business on Monday, September 15, 2008.

Sincerely,



S.A. "Tony" Shiekhi  
(512) 225-7131  
[Tony.Shiekhi@texasre.org](mailto:Tony.Shiekhi@texasre.org)

Enclosure

Cc: Victor Barry  
Susan Vincent

# Exhibit G



**FPL Energy**

FPL Energy LLC, 700 Universe Boulevard, Juno Beach, FL 33408  
561-304-5465

December 12, 2008

Rashida Caraway  
Texas Regional Entity  
7620 Metro Center Drive  
Austin, TX 78744

Ms. Caraway:

FPL Energy, LLC (FPL Energy) wanted to inform Texas RE that the mitigation plan corrective actions related to the violation of NERC Standard TOP-002 (TRE Violation – 200800045) on 11/29/2007 have been completed. The mitigation plan is listed in Appendix A of this letter.

Please let me know if you have any questions. I can be reached by email ([Matt.Pawlowski@fpl.com](mailto:Matt.Pawlowski@fpl.com)) or phone (561-304-5465 – office or 561-603-1389 – cell).

Sincerely,

Matt Pawlowski

## Mitigation Plan Submittal Form

Date this Mitigation Plan is being submitted: 12/12/08

If this Mitigation Plan has already been completed:

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

### Section A: Compliance Notices

- Section 6.2 of the CMEP<sup>1</sup> sets forth the information that must be included in a Mitigation Plan. The Mitigation Plan must include:
  - (1) The Registered Entity's point of contact for the Mitigation Plan, who shall be a person (i) responsible for filing the Mitigation Plan, (ii) technically knowledgeable regarding the Mitigation Plan, and (iii) authorized and competent to respond to questions regarding the status of the Mitigation Plan. This person may be the Registered Entity's point of contact described in Section 2.0.
  - (2) The Alleged or Confirmed Violation(s) of Reliability Standard(s) the Mitigation Plan will correct.
  - (3) The cause of the Alleged or Confirmed Violation(s).
  - (4) The Registered Entity's action plan to correct the Alleged or Confirmed Violation(s).
  - (5) The Registered Entity's action plan to prevent recurrence of the Alleged or Confirmed violation(s).
  - (6) The anticipated impact of the Mitigation Plan on the bulk power system reliability and an action plan to mitigate any increased risk to the reliability of the bulk power-system while the Mitigation Plan is being implemented.
  - (7) A timetable for completion of the Mitigation Plan including the completion date by which the Mitigation Plan will be fully implemented and the Alleged or Confirmed Violation(s) corrected.
  - (8) Implementation milestones no more than three (3) months apart for Mitigation Plans with expected completion dates more than three (3) months from the date of submission. Additional violations could be determined for not completing work associated with accepted milestones.
  - (9) Any other information deemed necessary or appropriate.
  - (10) The Mitigation Plan shall be signed by an officer, employee, attorney or other authorized representative of the Registered Entity, which if applicable, shall be the person that signed the Self-Certification or Self Reporting submittals.
- This submittal form may be used to provide a required Mitigation Plan for review and approval by Texas Regional Entity (Texas RE) and NERC.
- The Mitigation Plan shall be submitted to the Texas RE and NERC as confidential information in accordance with Section 1500 of the NERC Rules of Procedure.

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

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

**Section B: Registered Entity Information**

B.1 Identify your organization:

Company Name: FPL Energy, LLC  
Company Address: 700 Universe Blvd  
Juno Beach, FL 33408  
NERC Compliance Registry ID *[if known]*: NCR02910

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

Name: Matt Pawlowski  
Title: Manager, Reliability & Compliance  
Email: Matt.Pawlowski@fpl.com  
Phone: 561-304-5465

**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: TOP 002-2  
*[Identify by Standard Acronym (e.g. FAC-001-1)]*

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

NERC Violation ID # [if known]	Texas RE Violation ID # [if known ]	Requirement Violated (e.g. R3.2)	Violation Date <sup>(*)</sup>
Unknown	TRE200800045	R14	11/29/07

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

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

Violation self-reported on 2/26/08, see attached. Violation caused by a delay in communicating between our power marketing subsidiary, FPL Energy Power Marketing, Inc. (PMI), acting as Generator Operator for the ERCOT system and our generating station located in Forney, Texas. An operator on the Hourly Desk, following internal procedures, inadvertently violated NERC Standard requirements by failing to timely notify ERCOT operators of plant status and restore. Root causes of the event were as follows:

- Lack of strong policy environment
- Existing procedures did not provide sufficient direction relevant to NERC Standards
- Lack of sufficient Training and Awareness

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

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

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

**Section D: Details of Proposed Mitigation Plan**

**Mitigation Plan Contents**

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

FPL Energy's Mitigation Plan includes the following Corrective Actions:

1. Corrective Action #1: Hire Additional Compliance Manager
  - Compliance Manager to be hired dedicated to PMI;
  - Additional staff will report independent of the Power Marketing;
  - Compliance Manager will take on corrective actions contained within Mitigation Plan as high priority project.
2. Corrective Action #2: Create *Operations Policy For PMI in ERCOT Market (GOP-001)*
  - Create policy entitled *Operations Policy For PMI in ERCOT Market*;
  - Policy will be comprehensive to all of PMI but will immediately focus on employees on the Hourly Desk;
  - Policy will include instructions for more timely notification to system operators on unit status change and will provide for specific reporting mechanisms to system operators such as recorded voice lines and/or updating "resource plans";
  - Policy will be divided into the following sections:
    1. General Items
    2. Reliability Responsibilities
    3. Planned Resource Outage Coordination
    4. Unplanned Resource Outage Coordination
    5. Resource Deratings
    6. Emergency and Short Supply Operation
    7. Scheduling Processes
    8. Current Day Operations
  - Policy will be signed-off by an executive with authority over PMI.
  - Policy will include diagrammed workflow and alternate paths for failed process steps. Escalation and communication points will also be included;
  - Employees will be required to review and sign-off on their acceptance and understanding of the policy;
  - Disciplinary actions will be included in the policy;
  - Supporting procedures will be cross-referenced.
3. Corrective Action #3: Current Employee and New Hire Training & Awareness
  - Operations Policy For PMI in ERCOT Market (GOP-001) will be incorporated into "new hire" orientation and will be required prior to starting on the Hourly Desk;
  - Current employees will be trained during group sessions;
  - Newly hired employees will be trained as during "new hire" orientation and also during train-the-trainer sessions.

[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: Remediation activities are in-progress and will conclude with the completion of the last Milestone Activity, see below.
- D.3 Enter Milestone Activities, with completion dates, that your organization is proposing for this Mitigation Plan:

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

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

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

**Additional Relevant Information (Optional)**

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

A prior version of this mitigation plan was submitted by FPL Energy, LLC to Texas RE on September 15, 2008. With Texas RE's guidance on November 21, 2008 and November 25, 2008, this version is being submitted as a revision.

## **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:

On 4/4/08, initial training was conducted to ensure that Hourly Desk operators at PMI received appropriate instructions regarding ERCOT Protocols and NERC Reliability Standard requirements for reporting generator unit status changes. On 5/12/08, the position of a Compliance Manager responsible for PMI (and ERCOT) was filled.

[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:

This mitigation plan is based on three principles:

- a) Providing Clear Instruction
- b) Teaching Clear Instructions
- c) Monitoring and Measuring Adherence

The violation occurred due to internal procedures not specifically matching the requirements of the NERC Standards. Providing enhanced direction through authorized policies to relevant individuals should build a framework of instruction where future action may be directed. Reinforcing this framework to ensure continued adherence will occur through periodic training, awareness sessions, and disciplinary actions (if required). Lastly, ongoing monitoring of compliance activities by the Reliability and Compliance Group and the provision for corrective actions allows for oversight and assurance of on-going reliability of the Bulk Electric System.

[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:

All new personnel on the real-time desk will be trained on the use of the resource plan validation tool and all sections of the Operations Policy For PMI in ERCOT Market (GOP-001). This will be an on-going activity as new personnel is hired.

Additionally, every year, real-time desk personnel will be retrained as part of the annual training requirements established by ERCOT.

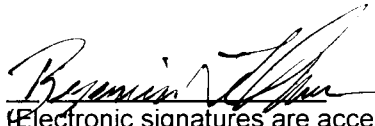
[Provide your response here; additional detailed information may be provided as an attachment as necessary]

## Section F: Authorization

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

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

**Authorized Individual Signature**



(Electronic signatures are acceptable; see CMEP)

Name (Print): Benjamin Church

Title: Director, Reliability and Compliance Group

Date: 12/12/08

**Section G: Comments and Additional Information**

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

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

**Submit completed and signed forms to [mitigation@texasre.org](mailto:mitigation@texasre.org)**

Please direct any questions regarding completion of this form to:

Texas Regional Entity  
Rashida Williams  
512-225-7056  
[rashida.williams@texasre.org](mailto:rashida.williams@texasre.org)

## **Attachment b**

### **Texas RE's Verification of Completion of the Mitigation Plan for TOP-002-2 R14 dated April 2, 2009**

**April 2, 2009**

**NextEra Energy Resources, LLC  
NERC ID#: NRC 02910**

**Violation Number(s):** TRE2008000045

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

NextEra Energy Resources, LLC (NextEra) indicated possible NERC Standards violations as specified on the self-report dated February 26, 2008

NERC Violation ID	Standard	Requirement	NERC Approval Date	NERC MP Number	Reg
TRE2008000045	TOP-002-2	R14			

**TRE2008000045 (2/26/08)**

**TOP-002-2, R14**

**Description of violation:**

FPL Energy, LLC (FPL Energy) is filing a self-report with regards to possible deficiencies with our adherence to TOP 002-2 Requirement 14. FPL Energy Power Marketing, Inc. as the FPLQSE, was asked, through a "Request for Information" dated January 23, 2008, to provide clarification as to events occurring on November 29, 2007. Although the information sought in the RFI focused solely on actions taken by the FPLQSE between 0630 and 0800 on November 29, 2007, FPL Energy performed an internal review of all events affecting the FPLQSE leading up to the EECF Step 1 Event of November 29, 2007. The results of this investigation are contained in the attached self report.

FPL Energy may have violated TOP-002-2, R14 on November 29, 2007. This requires Generator Operators to notify their Balancing Authority and Transmission Operator of resource capability and characteristic changes without any intentional delay. We read this Standard as being consistent with Section 5.5.1 of the ERCOT protocols, which requires a QSE to "report any changes in Resources status to ERCOT in the Resource Plan by the beginning of the next hour following the change in status." FPL Energy was asked through a "Request for Information" to provide clarification as to events occurring on November 29, 2007. Based on this RFI, FPL Energy performed an internal review, which among other things resulted in our identification of a possible NERC Reliability Standard violation. The results of this investigation are contained in this self-report.

On November 29, 2007, at 0255, FPLQSE was notified by FPLE Forney that a circulating water pump failed on Forney Block 2, which made GT21 unavailable and also removed 100 MW of duct burner capability from the remaining units due to steam flow limitations. FPLQSE submitted an updated Resource Plan, albeit with errors, at 0440. Also on November 29, 2007, at 0203, FPLQSE was informed by Lamar that CT21 and CT22 would miss their first hour. FPLQSE stayed in close contact with the plant, and ultimately CT21 did not miss its first hour. Subsequent discussions with the plant confirmed that CT22 would have a late start, and ultimately CT22 tripped during startup at 0608 due to a loss of flame. FPLQSE submitted an updated Resource Plan, albeit with errors, at 0616. The submittals of the revised Resource Plans at 0440 and 0616 would appear to be inconsistent with Section 5.5.1 of the ERCOT protocols. If a violation of an ERCOT protocol has occurred there may be a violation of TOP-002-2 R14.

**Description of plan to become compliant:**

FPL Energy's Mitigation Plan includes the following Corrective Actions:

1. Corrective Action #1: Hire Additional Compliance Manager
  - Compliance Manager to be hired dedicated to PMI;
  - Additional staff will report independent of the Power Marketing;
  - Compliance Manager will take on corrective actions contained within Mitigation Plan as high priority project.
2. Corrective Action #2: Create Uniform Generation Operations Policy for Power Marketing, Inc. in ERCOT Market
  - Create policy entitled Uniform Generation Operations Policy for Power Marketing, Inc. in ERCOT market;
  - Policy will be comprehensive to all of PMI but will immediately focus on employees on the Hourly Desk;
  - Policy will be signed-off by an executive with authority over PMI.
  - Employees will be required to review and sign-off on their acceptance and understanding of the policy;
  - Disciplinary actions will be included in the policy;
  - Supporting procedures will be cross-referenced.
3. Corrective Action #3: Update Existing Procedures
  - Unit Trip and Outage Procedure GEN-001 dated 4/6/07 will be updated to provide instructions for more timely notification to system operators on unit status change;
  - Unit Trip and Outage Procedure GEN-001 dated 4/6/07 will be updated to provide for specific reporting mechanisms to system operator such as recorded voice lines and/or updating "resource plans" as appropriate;
  - Unit Trip and Outage Procedure GEN-001 dated 4/6/07 will be updated to provide for diagrammed workflow and alternate paths for failed process steps. Escalation and communication points are to be included.
4. Corrective Action #4: Training & Awareness
  - Policy and Procedures will be incorporated into "new hire" orientation and will be required prior to starting on the Hourly Desk;
  - Create a list of all positions and current hires that should be trained on the policies and procedures;
  - Train current employees.

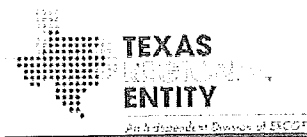


<b>Milestone Activity</b>	<b>Proposed Completion Date* (shall not be more than 3 months apart)</b>
Corrective Action #1: Hire Compliance Manager	5/12/08
Corrective #2: <i>Uniform Generation Operations Policy for Power Marketing, Inc</i>	10/15/08
Corrective Action #3: Update Existing Procedures	10/1/08
Corrective Action #4: Training	10/31/08

**NextEra provided Texas RE the following documents regarding the violation:**

1. Screen shot of Org Chart showing addition of Compliance Manager
2. 12/6/08 Resource Plan Check

Texas RE verified the completion of the mitigation plan by review of the supplied documents and interviews with NextEra's personnel during the on-site audit performed February 10 – 12, 2009. On-site, the audit team reviewed NextEra's new organization chart that showed the hiring of a Compliance Manager, Matt Pawlowski, and the resource plan checking software / process that was put in place. The audit team and NextEra discussed the changes made at Nextera to improve the personnel awareness.



**Conclusion:**

Based on evidence presented by NextEra and reviewed by Texas RE, this letter confirms the above mentioned mitigation plans are complete.

**Attachment c**

**Notice of Filing**

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

NextEra Energy Resources, LLC

Docket No. NP10-\_\_\_\_-000

NOTICE OF FILING  
March 31, 2010

Take notice that on March 31, 2010, the North American Electric Reliability Corporation (NERC) filed a Notice of Penalty regarding NextEra Energy Resources, LLC in the Texas Regional Entity 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](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: [BLANK]

Kimberly D. Bose,  
Secretary