

February 1, 2010

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

## Re: NERC Notice of Penalty regarding New York State Electric & Gas Corporation, 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 New York State Electric & Gas Corporation (NYSEG), NERC Registry ID NCR07181,<sup>2</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>3</sup>

On July 18, 2008, NYSEG submitted a Quarterly Vegetation Outage Report which indicated non-compliance with FAC-003-1 Requirement (R) 2 for failure to properly maintain vegetation clearance according to NYSEG's Transmission Vegetation Management Program (TVMP). On August 15, 2008, NYSEG self-reported a second occurrence of non-compliance with FAC-003-1 R2 for its failure to properly maintain vegetation clearance according to NYSEG's TVMP. This Notice of Penalty is being filed with the Commission because, based on information from Northeast Power Coordinating Council, Inc. (NPCC), NPCC and NYSEG have entered into a Settlement Agreement to resolve all outstanding issues arising from a preliminary and non-public assessment resulting in NPCC's determination and findings of the enforceable alleged violations of FAC-003-1 R2. Pursuant to the Settlement Agreement, NYSEG neither admits nor denies the two alleged violations of FAC-003-1, but NYSEG has agreed to the proposed penalty of two hundred fifty thousand dollars (\$250,000) to be assessed to NYSEG, in addition to other

<sup>3</sup> See 18 C.F.R § 39.7(c)(2).

116-390 Village Blvd. Princeton, NJ 08540 609.452.8060 | www.nerc.com

<sup>&</sup>lt;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 (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).

<sup>&</sup>lt;sup>2</sup> Northeast Power Coordinating Council, Inc. confirmed that NYSEG was included on the NERC Compliance Registry as a Purchasing-Selling Entity, Transmission Owner, Load Serving Entity and Distribution Provider on June 21, 2007. As a Transmission Owner, NYSEG was subject to the requirements of NERC Reliability Standards FAC-003-1.

remedies and mitigation actions to mitigate the instant alleged violations and ensure future compliance under the terms and conditions of the Settlement Agreement. Accordingly, the alleged violations identified as NERC Violation Tracking Identification Numbers NPCC200800041 and NPCC200800042 are being filed in accordance with the NERC Rules of Procedure and the CMEP.

## **Statement of Findings Underlying the Alleged Violations**

This Notice of Penalty incorporates the findings and justifications set forth in the Settlement Agreement executed on June 29, 2009 by and between NPCC and NYSEG, included as Attachment c. 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 (\$)
NDCC	NYSEC	NOC-	NPCC200800041	FAC-003-1	2	High	250.000
NFCC	NY SEG	119	NPCC200800042	FAC-003-1	2	High	230,000

The purpose of Reliability Standard FAC-003-1 is to improve the reliability of the electric transmission systems by preventing outages from vegetation located on transmission rights-of-way (ROW) and minimizing outages from vegetation located adjacent to ROW, maintaining clearances between transmission lines and vegetation on and along transmission ROW, and reporting vegetation related outages of the transmission systems to the respective Regional Entities and NERC.

FAC-003-1 R2 requires each T ransmission Owner, such as NYSEG, to create and implement an annual plan for vegetation m anagement work to ensure the reliability of the system. The plan shall describe the m ethods used, such as m anual clearing, m echanical clearing, herbicide treatment, or other actions. The plan should be flexible enough to adjust to changing conditions, taking into considerat ion anticipated growth of vegetation and all other environmental factors that may have an impact on the reliability of the transmission systems. Adjustments to the plan shall be documented as they occur. The plan should take into consideration the tim e required to obtai n permissions or perm its from landowners or regulatory authorities. Each Transmission Owner shall have system s and procedures for documenting and tracking the planned vegetation management work and ensuring that the vegetation management work was completed according to work specifications. FAC-003-1 R2 has a "High" VRF.

## Violation #1

On July 18, 2008, NYSEG submitted a Quarterly Vegetation Outage Report which indicated that, on April 18, 2008 at 2023 hours EST, NYSEG's 230 kV transmission line between Stolle Road Substation and Meyer Substation (Line 67) sagged into an apple tree causing the line to trip and lockout. The height of the tree was estimated to be approximately 22 feet. Line 67 was loaded at 1,120 amps at the time of the incident, which is 87% of the normal winter rating<sup>4</sup> of the transmission line. NYSEG also reported an "atypical amount of sag had occurred that caused the contact/flashover with the apple tree." NPCC requested that NYSEG review its sag calculations of the spans involved in the alleged incidents. NYSEG reviewed and certified the sag calculation for the span between towers 96 and 97 and found them to be acceptable for an 87% rating.

NYSEG line crews were dispatched to the area where the problem was suspected based on fault distance relay information. The line crews inspected the line that evening into the early morning on April 19, 2008, and did not find a cause for the fault. NYSEG restored service of Line 67 at 0337 hours on April 19, 2008.

NYSEG dispatched foot patrol crews on April 19, 2008, April 21, 2008 and April 22, 2008 to inspect the line for the cause of the outage of April 18, 2008. The crews did not find the cause of the outage. On May 7, 2008, a NYSEG Forester observed burn marks on the bark of an apple tree and surrounding grass area between structures 96 and 97. The apple tree was removed on May 8, 2008.

NYSEG's TVMP<sup>5</sup> sets Priority 1 and 2 standards based on NERC FAC-003-1 Clearance Standards. The TVMP specifies a Clearance 2 distance of 7 feet for its 230 kV transmission lines. NYSEG would have become non-compliant to FAC-003-1 when the apple tree grew into the Clearance 2 distance; however the exact date can only be speculated based on assumed growth rates.<sup>6</sup> Given that the tree height was estimated because the tree had been removed before it was measured, the estimated exceedance was estimated to be approximately 7 feet. Therefore, the tree may have encroached into the Clearance 2 distance 7 years prior to April 18, 2008.

NYSEG's TVMP allows for tall shrubs and small trees to grow in the border or the ROW, except on narrower sub-transmission ROW, subject to applicable clearances. The apple tree identified was considered a compatible species<sup>7</sup> that was allowed to grow in the transmission ROW.

<sup>&</sup>lt;sup>4</sup> In April, winter ratings are still in effect in the New York Independent System Operator (NYISO) footprint.

<sup>&</sup>lt;sup>5</sup> NYSEG's TVMP is called the "Long-Range Right of Way Management Plan for the NYSEG Electric Transmission System."

<sup>&</sup>lt;sup>6</sup> Tree growth can vary based on a number of variables such as age of the tree, soil type, available water, and most importantly how it has been pruned in the past. Generally, an apple tree, left untouched, will grow approximately 1 foot per year or growing season until it tops out at 30-40 feet. If it had been topped in the past it could grow much quicker from where the cuts were made. These are called epicormic shoots or water sprouts. Epicormic shoots on an apple could probably grow 2 feet or more in a year.

<sup>&</sup>lt;sup>7</sup> In NYSEG's TVMP, apple trees are a species as "tall shrubs and small trees that may be compatible in the border zone."

NYSEG's records indicate that, at the last treatment of the area in 2001, the apple tree was not considered an undesirable ROW species and therefore did not pose a risk. In 2001, the NYSEG ROW clearing cycle was 8 years. In 2005, NYSEG began transitioning from an 8-year ROW clearing cycle to a 6-year ROW clearing cycle. The NYSEG plan is to complete this transition during a 6-year period with full completion by year-end 2011. Line 67 was scheduled for treatment in summer 2008.

NYSEG's TVMP describes the time frames for the aerial and foot patrols that are to be performed annually as part of its program. The first is a helicopter patrol conducted in the early spring or early summer and the second is a foot patrol designed to identify danger trees along the ROW. The 2007 helicopter patrol was performed on July 30, 2007 and the 2007 foot patrol was performed on January 5, 2007, January 8, 2007 and January 10, 2007. The 2008 foot patrol was done on March 3, 2008. None of the patrols identified the apple tree as a potential problem. The apple tree was located in a recreational area where the landowner had requested NYSEG allow certain vegetation to grow. While NYSEG has no record of acting on the landowners' request, under NYSEG's TVMP, apple trees can be allowed in the ROW under conductors, subject to minimum Clearance 2 distances, and accordingly, NYSEG had a practice to accommodate such requests where possible.

NPCC determined the duration of the first violation of FAC-003-1 R2 to be from the date that the apple tree's height would have violated NYSEG's TVMP, until May 8, 2008,<sup>8</sup> when NYSEG removed the tree.

## Violation #2

On August 15, 2008, NYSEG submitted a self-report indicating that, on July 11, 2008, the 345 kV Line 33 flashed over or made contact with a 51 foot spruce tree in the transmission ROW causing an outage which lasted 4 hours and 51 minutes. Line 33 was loaded at 1,521 amps which is 75% of the normal summer rating.

NYSEG line crews were dispatched to the area where the problem was suspected based on fault distance relay information. The crews found a spruce tree that caused the outage; the tree was removed and the line was restored. NYSEG crews also cut down another 2 to 3 trees and reduced the height of 4 to 5 more in the immediate area as a precaution; these trees were not in violation at the time they were either cut down or trimmed. In addition, NYSEG conducted aerial and foot patrols on its entire system, as discussed below.

NYSEG's TVMP specifies a Clearance 2 distance of 11 feet for 345 kV transmission lines. NYSEG would have become non-compliant to FAC-003-1 when the spruce tree grew into the Clearance 2 distance, however the exact date can only be speculated based on assumed growth

<sup>&</sup>lt;sup>8</sup> NERC notes, that based on NPCC's findings, that the tree could have been in the clearance for seven years, the tree likely encroached the clearance at least as early as June 18, 2007.

rates.<sup>9</sup> Given an estimated growth of a spruce tree, the tree would have encroached into the Clearance 2 distance several years prior to July 11, 2008.

NYSEG's 2007 helicopter patrol for Line 33 was performed on February 21, 2007 and the 2007 foot patrol was performed in October, November and December of 2007. There was no evidence of any problems found according to the reports. However, upon subsequent investigation, a NYSEG contract Forester recalls identifying the spruce tree at this location from the air as needing to be checked on the ground. This observation was not filed formally and was not included in written records. There is no evidence that this observation was followed-up by NYSEG. NYSEG's TVMP was revised, as set forth in the Mitigation Plan and discussed below, to ensure that aerial and ground patrol inspection reports will capture all Clearance 2 conditions, as well as any other observations requiring follow-up. In addition, NYSEG created a Corporate Forester Position responsible for TVMP revisions, implementation, and quality assurance/quality control as a quality assurance/quality control (QA/QC) measure to ensure and improve reliability of the bulk power system.

NPCC determined the duration of the second violation of FAC-003-1 R2 to be from the date that the spruce tree violated NYSEG's TVMP, until July 11, 2008,<sup>10</sup> when NYSEG removed the tree.

NYSEG conducted a root cause analysis for both violations and concluded that there were two root causes identified: (1) trees were allowed to remain in the ROW beneath and beside transmission; and (2) the TVMP allowed filed operations and forestry personnel to exercise discretion in allowing trees to remain in the ROW and did not provide adequate training, procedures or tools to exercise said discretion appropriately in these instances.

According to the Settlement Agreement, NPCC determined a two hundred fifty thousand dollar (\$250,000) penalty was appropriate for NYSEG based on the following factors: (1) NYSEG self-reported the second vegetation contact; (2) NYSEG was cooperative throughout the entire process from the reporting of the first and second vegetation contact through the settlement negotiations; and (3) NYSEG has a comprehensive internal compliance program to prevent and detect violations of laws and regulations.

## **Status of Mitigation Plan**<sup>11</sup>

NYSEG's Mitigation Plan to address its alleged violations of FAC-003-1 R2 was submitted to NPCC on June 30, 2009.<sup>12</sup> The plan was accepted by NPCC on June 30, 2009 and approved by NERC on July 21, 2009. The Mitigation Plan for this alleged violation is designated as MIT-08-

<sup>&</sup>lt;sup>9</sup> There are a number of different species of spruce trees that grow at different rates. Additionally, other variables such as the age of the tree, soil type, and available water will also affect the tree's rate of growth. However, without regard to the specifics of the instant tree, the most common spruce will grow approximately 12 to 24 inches in a growing season.
<sup>10</sup> NERC notes, that based on NPCC's findings, that the tree could have been in the clearance for several years, the

<sup>&</sup>lt;sup>10</sup> NERC notes, that based on NPCC's findings, that the tree could have been in the clearance for several years, the tree likely encroached the clearance at least as early as June 18, 2007.

<sup>&</sup>lt;sup>11</sup> See 18 C.F.R § 39.7(d)(7).

<sup>&</sup>lt;sup>12</sup> The Settlement Agreement states that the Mitigation Plan was submitted on December 22, 2008. This initial Mitigation Plan was rejected by WECC and the final Mitigation Plan was submitted on June 30, 2009.

1813 and was submitted as non-public information to FERC on July 21, 2009 in accordance with FERC orders.

NYSEG's Mitigation Plan specified two groups of actions; the first was a group of required remedial actions that NYSEG had completed at the time it submitted its Mitigation Plan and the second was a group of additional actions that addressed issues discovered in NYSEG's root cause analysis. The required actions are listed below.

NYSEG certified on December 28, 2009 that its Mitigation Plan was completed as of December 21, 1009. As evidence of completion of its Mitigation Plan, NYSEG submitted the following evidence to support completion of each of the below listed required actions:

Required Remedial Actions:

- Aerial inspection of 100% of the bulk power system Completed August 21, 2008 as evidenced by certification of completion from NYSEG Vice-President dated October 24, 2008 to NPCC;
- 2. Spot-check audit of FAC-003-1 completed and accepted by NPCC Completed September 15, 2008 as evidenced by NPCC's Spot Check Letter;
- Foot patrol inspection of 100% of the bulk power system Completed September 18, 2008 as evidenced by certification of completion from NYSEG Vice-President dated October 24, 2008 to NPCC;
- Root Cause Analysis of both tree-caused outages prepared and accepted by NYSEG Senior Management and NPCC – Completed October 24, 2008 as evidenced by NYSEG's Root Cause Analysis Document and by certification of completion from NYSEG Vice-President dated October 24, 2008 to NPCC;
- Additional training for all NYSEG Foresters regarding FAC-003-1 Requirements. (completed and verified by NPCC) – Completed November 5, 2008 and November 6, 2008 as evidenced by the Forester's Meeting Agenda for meeting conducted on November 5, 2008 and November 6, 2008; and
- Additional training for all NYSEG Line Supervisors regarding FAC-003-1 Requirements. (completed and verified by NPCC) – Completed November 5, 2008 and November 6, 2008 as evidenced by the Forester's Meeting Materials for meeting conducted on November 5, 2008 and November 6, 2008.

Additional Mitigation Actions:

To prevent recurrence of the referenced violations, NYSEG's Mitigation Plan also included the following additional mitigation actions which address issues identified in the Root Cause Analysis:

1. Obtain Independent Transmission System Assessment: field inspection of bulk power system. (completed and verified by NPCC) – Completed on November 6, 2008 as

evidenced by NYSEG Transmission System Assessment document dated November 10, 2008;

- Commission Independent Transmission System Assessment: evaluation of TVMP. (completed and verified by NPCC) – Completed by the Mitigation Plan date of November 12, 2008 as evidenced by NYSEG Transmission System Assessment document dated November 10, 2008;
- Create NYSEG Corporate Forester position responsible for TVMP revisions, implementation, and QA/QC – Completed by the Mitigation Plan date of January 30, 2009 as evidence by NYSEG document posting NYSEG Corporate Forester Position (completed and verified by NPCC). Subsequently, the Position was filled;
- 4. Revise TVMP to remove discretion regarding non-desirable species to address the identified root causes Completed by the Mitigation Plan date of June 30, 2009 as evidenced by NYSEG's Revised TVMP issued June 19, 2009;
- Implement FERC Model Compliance Program developed by a utility consortium, including a Reliability Compliance Section, consistent with NYSEG's Culture of Compliance and Compliance Program – Completed by the Mitigation Plan date of June 30, 2009 as evidenced by the Document for Compliance Working Group membership by NYSEG as part of 27 energy companies working together following FERC's May 2008 meeting on Enforcement;
- Implement TVMP standard QA/QC program, standardized forms and record retention Completed by the Mitigation Plan date of July 31, 2009 as evidenced by NYSEG's Transmission Vegetation Management Quality Assurance Plan;
- Conduct training for all NYSEG Foresters (and forestry contractors) on revised TVMP for bulk power system – Completed by the Mitigation Plan date of July 31, 2009 as evidenced by the List of Attendees for NERC and TVMP Training completed on May 26, 2009 and May 27, 2009, and the TMVP and Vegetation Patrol's Powerpoint Presentation;
- Conduct training for all NYSEG Line Supervisors on revised TVMP for bulk power system – Completed by the Mitigation Plan date of July 31, 2009 as evidenced by List of Attendees for NERC and TVMP Training completed on July 28, 2009, and the TMVP and Vegetation Patrols Powerpoint Presentation;
- Create LiDAR survey schedule of bulk power system Completed by the Mitigation Plan date of July 31, 2009 as evidenced by Request for Proposal for LiDAR Aerial Survey;
- Implement LiDAR survey for scheduled 2009 bulk power system Completed by the Mitigation Plan date of December 31, 2009 as evidenced by the December 7, 2009 e-mail correspondence from the Manager of Vegetation Management; and
- 11. Evaluate potential improvements by reducing TVMP cycle for bulk power system from 6 years to 5 years in relation to Additional Enhancements described herein Completed by the Mitigation Plan date of December 31, 2009 as evidenced by the report prepared by

> the Manager of Vegetation Management (i.e., the Corporate Forester) as accepted by NYSEG Vice President<sup>13</sup>

On January 5, 2010, after reviewing NYSEG's submitted evidence, NPCC verified that NYSEG's Mitigation Plan was complete and that NYSEG was in compliance with FAC-003-1.

According to the Settlement Agreement, the estimated cost to implement the agreed to actions exceeds \$2,000,000 for 2009. NPCC may audit and inspect financial records to validate actual expenditures with 2009 estimate in this Agreement. Furthermore, NYSEG estimates that recurring costs could exceed \$2,000,000 annually and that it will provide information on actual costs and an annual report regarding its TVMP during 2010-2015 at NPCC's request. NYSEG will submit these status updates to NPCC in accordance with the confidentiality provisions of Section 1500 of the NERC Rules of Procedure.

## Statement Describing the Proposed Penalty, Sanction or Enforcement Action Imposed<sup>14</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>15</sup> the NERC BOTCC reviewed the Settlement Agreement and supporting documentation on November 9, 2009. The NERC BOTCC approved the Settlement Agreement, including NPCC's imposition of a financial penalty, assessing a penalty of two hundred fifty thousand dollars (\$250,000) against NYSEG and other actions to facilitate future compliance required under the terms and conditions of the Settlement Agreement.<sup>16</sup> 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, the NERC BOTCC considered the following factors:

- (1) NYSEG had no prior violation of FAC-003-1 R2 or any other Reliability Standards;
- (2) Although NYSEG had a TVMP, it was not effectively implementing its TVMP;
- (3) NYSEG acted to mitigate the instant violations by eliminating the encroaching vegetation overgrowth;

<sup>&</sup>lt;sup>13</sup> NYSEG decided not to reduce the cycle period from six years to five years, because it determined that the reduction from eight years to six and the improvements to the management of vegetation on its bulk power system, as discussed herein, make it unnecessary to further reduce the management cycle to five years at this time. In addition to these improvements, NYSEG also used the LiDAR survey results to identify and remove vegetation on its bulk power system rights-of-way. NYSEG's report states that it will continue to evaluate the conditions of its transmission rights of way and the effectiveness of its vegetation management program for the best reliability and cost-benefit result.

<sup>&</sup>lt;sup>14</sup> See 18 C.F.R § 39.7(d)(4).

<sup>&</sup>lt;sup>15</sup> North American Electric Reliability Corporation, "Guidance Order on Reliability Notices of Penalty," 124 FERC

 $<sup>\</sup>P$  61,015 (2008). <sup>16</sup> The NERC BOTCC notes that the registered entity does not receive direct or offset credit for money spent for actions to mitigate the violation or for any additional money spent above and beyond what is required to mitigate the violation.

- (4) NYSEG took action to determine if there were other areas of overgrowth;
- (5) NYSEG conducted a root cause analysis for its non-compliance and took the corrective actions discussed herein to prevent future encroachments and non-compliance; and
- (6) NYSEG was cooperative throughout the entire violation investigation.

For the foregoing reasons, the NERC BOTCC approves the Settlement Agreement and believes that the proposed two hundred fifty thousand dollar (\$250,000) penalty is appropriate for the violation and circumstances in question, and 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 to be included as Part of this Notice of Penalty

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

- a) NYSEG's Quarterly Vegetation Outage Report submitted July 18, 2008, included as Attachment a;
- b) NYSEG's self-report, dated August 15, 2008, included as Attachment b;
- c) Settlement Agreement by and between NYSEG and NPCC, dated June 29, 2009, included as Attachment c;
- d) Mitigation Plan designated as MIT-08-1813, submitted June 30, 2009, included as Attachment d;
- e) NYSEG's Certification of Completion of the Mitigation Plan, dated December 28, 2009, included as Attachment e; and
- f) NPCC's Verification of Completion of the Mitigation Plan, dated January 5, 2010, included as Attachment f.

## A Form of Notice Suitable for Publication<sup>17</sup>

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

<sup>&</sup>lt;sup>17</sup> See 18 C.F.R § 39.7(d)(6).

## **Notices and Communications**

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

Gerald W. Cauley*	Rebecca J. Michael*
President and Chief Executive Officer	Assistant General Counsel
David N. Cook*	Holly A. Hawkins*
Vice President and General Counsel	Attorney
North American Electric Reliability Corporation	North American Electric Reliability Corporation
116-390 Village Boulevard	1120 G Street, N.W.
Princeton, New Jersey 08540-5721	Suite 990
(609)452-8060	Washington, D.C. 20005-3801
(609) 452-9550 – facsimile	(202) 393-3998
gerry.cauley@nerc.net	(202) 393-3955 – facsimile
david.cook@nerc.net	rebecca.michael@nerc.net
	holly.hawkins@nerc.net
Mark S. Lynch*	
President	Edward A. Schwerdt*
New York State Electric & Gas Corp.	President & Chief Executive Officer
89 East Avenue	Northeast Power Coordinating Council, Inc.
Rochester, NY 14649-0001	1040 Avenue of the Americas-10th Fl.
585-724-8010	New York, N.Y. 10018-3703
585-724-8285 – facsimile	212-840-1070
mark.lynch@energyeast.com	212-302-2782 - facsimile
	eschwerdt@npcc.org
R. Scott Mahoney*	
Counsel for New York State Electric & Gas Corp.	Stanley E. Kopman*
Deputy General Counsel	Assistant Vice President of Compliance
Iberdola USA Management Corp.	Northeast Power Coordinating Council, Inc.
217 Commercial Street	1040 Avenue of the Americas-10th Fl.
Portland, ME 04101	New York, N.Y. 10018-3703212- 840-1070
207-621-3955	212-302-2782 – facsimile
207-621-4714 - facsimile	skopman@npcc.org
scott.mahoney@energyeast.com	
	Walter Cintron*
Michael H. Conroy*	Manager of Compliance Enforcement
Vice President - Electrical	Northeast Power Coordinating Council, Inc.
Transmission and Distribution	1040 Avenue of the Americas-10th Fl.
New York State Electric & Gas Corp.	New York, N.Y. 10018-3703212-840-1070
89 East Avenue	212-302-2782 – facsimile
Rochester, NY 14649-0001	wcintron@npcc.org
585-724-8176	
585-724-8285 – facsimile	*Persons to be included on the Commission's service
Michael_Conroy@rge.com	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,

Gerald W. Cauley President and Chief Executive Officer David N. Cook Vice President and General Counsel North American Electric Reliability Corporation 116-390 Village Boulevard Princeton, NJ 08540-5721 (609) 452-8060 (609) 452-9550 – facsimile gerry.cauley@nerc.net david.cook@nerc.net <u>/s/ Rebecca J. Michael</u> Rebecca J. Michael Assistant General Counsel Holly A. Hawkins Attorney North American Electric Reliability Corporation 1120 G Street, N.W. Suite 990 Washington, D.C. 20005-3801 (202) 393-3998 (202) 393-3955 – facsimile rebecca.michael@nerc.net holly.hawkins@nerc.net

cc: New York State Electric & Gas Corporation Northeast Power Coordinating Council, Inc.

Attachments



# Attachment a

NYSEG's Quarterly Vegetation Outage Report submitted July 18, 2008

F	OR PUBLIC RELEASE - FEBRUARY 1, 2010				
	NPCC Member Portal				
NPCC, Inc.	NYSEG				
Logged in as: PDF Service	FAC-003-1 Quarterly Vegetation Outage LOC - Vegetation Quarterly Outage LOC - 2nd Quarter 2008				
Log Out	Save PDF   Return To Search Results				
System Administration	Attachments (0)				
✓ Compliance	Reference Document: FAC-003-1 Vegetation Management				
DP Forms					
TO Forms	This form has been locked due to an expired lockout date.				
All Forms	If you need to edit data contained in this form, please contact your NPCC Administrator.				
Certification Statements	This form was submitted on 7/18/2008.				
Reports					
Mitigation Plans	* Required Fields Status: Read Only				
Plants & Generators	Technical Contact				
▶ 2009 Schedule	* Joe De Angelo (igdeangelo@nyseg.com)				
	<ul> <li>The information in this submittal is designated as "Confidential". As such, it includes trade secrets, commercial or financial information that the submitter believes is commercially valuable and does not customarily disclose to the public. Disclosure of this information to the public could reasonably be expected to cause substantial competitive harm to the submitter. Member compliance results and comments are generally shared with NERC in an aggregated manner. Data will be shared with NERC, on request, pursuant to the NERC-NPCC Confidentiality Agreement.</li> <li>Note: this LOC is applicable to owners or operators of transmission lines rated 200 kV and above or other lower voltage lines designated by NPCC to be critical to the reliability of the electric system. It also applies to generation owners who own transmission lines rated 200 kV and above or other lower voltage lines designated by NPCC to be critical to the reliability of the electric system. It also applies to generation owners who own transmission lines rated 200 kV and above or other lower voltage lines designated by NPCC to be critical to the reliability of the electric system. It also applies to generation owners who own transmission lines rated 200 kV and above or other lower voltage lines designated by NPCC to be critical to the reliability of the electric system.</li> </ul>				
	<ul> <li>designated by NPCC to be critical to the reliability of the electric system.</li> <li>1. The NERC Reliability Standard FAC-003-1 on Vegetation Management applies to NYSEG because NYSEG owns transmission circuits 200 kV or higher or other lower voltage lines designated by NPCC to be critical to the reliability of the electric system.</li> </ul>				
	For the reporting period of 2nd Quarter 2008:				
	All outages on transmission circuits 200 kV or higher or other lower voltage lines designated by NPCC to be critical to the reliability of the electric system shall be reported where the cause of the outage is the line faulting due to contact with vegetation, except:				
	<ul> <li>Multiple outages on an individual line, if caused by the same vegetation, shall be reported as one outage regardless of the actual number of outages within a 24-hour period.</li> <li>A single trip followed by a successful automatic reclose within a 24-hour period shall not be a reportable outage.</li> <li>Vegetation-related outages that result from vegetation falling into lines from outside the ROW that result from natural disasters shall not be considered reportable (examples of disasters that could create non-reportable outages include, but are not limited to, earthquakes, fires, tornados, hurricanes, landslides, wind shear, major storms as defined either by the Transmission Owner or an applicable regulatory body, ice storms, and floods).</li> <li>Vegetation-related outages due to human or animal activity shall not be considered reportable outage include, but are not limited to, logging, animal severing tree, vehicle contact with tree, arboricultural activities or horticultural or agricultural activities, or removal or digging of vegetation).</li> </ul>				
	a. No vegetation-related line outages occurred during the compliance reporting period. Submittal of a <b>Vegetation-Related Line Outage Reporting Form</b> is <b>not</b> required.				

The NERC Reliability Standard FAC-003 ecause NYSEG does not own transmis esignated by NPCC to be critical to the equired in addition to this Letter of Certi The NERC Reliability Standard FAC-003 ata has been coordinated with and is c Master Account	3-1 on Vegetatio ssion lines 200 l reliability of the fication.) 3-1 on Vegetatic overed by the s	on Managen kV or highe e electric sy: on Managen	nent does not ap r or any other lo stem. (No furthe	oply to NYS wer voltag r submittal
he NERC Reliability Standard FAC-003 ata has been coordinated with and is c Master Account	3-1 on Vegetation overed by the s	on Managen	aant annliaa ta N	
Master		ouvirinitiansi	of	NYSEG an
	First Name	Last Name	Telephone	Email
<u>3:</u> Fhis submittal also covers:				
Master Account	First Name	Last Name	Telephone	Email
	<u>3:</u> This submittal also covers: Master Account	3: This submittal also covers: Master Account First Name	3: This submittal also covers: Master Account First Name Name	<u>3:</u> This submittal also covers:         Master       First       Last       Telephone         Account       Name       Name       Telephone

Additional Comments:

\*\* A certification statement and officer signature is NOT required for quarterly Vegetation Outage LOC or RF.

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B Submit to NPCC

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# Attachment b

# NYSEG's self-report, dated August 15, 2008

	Public Homepage 🛛 Portal Homepage 🧃				
	NPCC Member Portal				
NPCC, Inc.	NYSEG				
Logged in as:	FAC-003-1 Self Report (TO)				
PDF Service	Save PDF   Return To Search Results				
	Attachments (0)				
DP Forms TO Forms	This form has been locked due to an expired lockout date. If you need to edit data contained in this form, please contact your NPCC Administrator.				
All Forms Historical Forms Certification Statements	This form was marked as ready to be added to a certification statement on 8/15/2008.				
Reports	* Required Fields Status: Read Only				
Mitigation Plans	Technical Contact				
<ul> <li>Plants &amp; Generators</li> <li>2009 Schedule</li> </ul>	* Joe De Angelo (jgdeangelo@nyseg.com)				
	<ul> <li>with established procedures pursuant to section 1500 of the NERC rules of procedure.</li> <li>As an authorized representative of NYSEG , I certify the following:</li> <li>NYSEG was Not in Compliance for a portion of or the entire Reporting Period with the following Requirements of NERC Reliability Standard FAC-003-1 (indicated by checkmark) but was in compliance with all other Requirements of the standard for the entire Reporting Period.</li> <li>LNC - Level 4</li> <li>Check all requirements for which NYSEG was Not in Compliance for a portion of or the entire Reporting Period:</li> <li>R1. The Transmission Owner shall prepare, and keep current, a formal transmission vegetation management program (TVMP). The TVMP shall include the Transmission Owner's objectives, practices, approved procedures, and work specifications1</li> <li>R1. The TVMP shall define a schedule for and the type (aerial, ground) of ROW vegetation inspections. This schedule should be flexible enough to adjust for changing conditions. The</li> </ul>				
	<ul> <li>inspection schedule shall be based on the anticipated growth of vegetation and any other environmental or operational factors that could impact the relationship of vegetation to the Transmission Owner's transmission lines.</li> <li>R1.2. The Transmission Owner, in the TVMP, shall identify and document clearances between vegetation and any overhead, ungrounded supply conductors, taking into consideration transmission line voltage, the effects of ambient temperature on conductor sag under maximum design loading, and the effects of wind velocities on conductor sway. Specifically, the Transmission Owner shall establish clearances to be achieved at the time of vegetation and overhead ungrounded supply conductors.</li> <li>R1.2.1. Clearance 1 — The Transmission Owner shall determine and document appropriate clearance distances to be achieved at the time of transmission vegetation management work based upon local conditions and the expected time frame in which the Transmission Owner plans to return for future vegetation management work. Local conditions may include, but are not limited to: operating voltage, appropriate vegetation management techniques, fire risk, reasonably anticipated tree and conductor movement, species types and growth rates, species failure characteristics, local climate and rainfall patterns, line terrain and elevation, location of the vegetation within the span, and worker approach distance 2 below.</li> </ul>				

electrical operating conditions. These minimum clearance distances are necessary to prevent flashover between vegetation and conductors and will vary due to such factors as altitude and operating voltage. These Transmission Owner-specific minimum clearance distances shall be no less than those set forth in the Institute of Electrical and Electronics Engineers (IEEE) Standard 516-2003 (Guide for Maintenance Methods on Energized Power Lines) and as specified in its Section 4.2.2.3, Minimum Air Insulation Distances without Tools in the Air Gap.

- R1.2.2.1. Where transmission system transient overvoltage factors are not known, clearances shall be derived from Table 5, IEEE 516-2003, phase-to-ground distances, with appropriate altitude correction factors applied.
- R1.2.2.2. Where transmission system transient overvoltage factors are known, clearances shall be derived from Table 7, IEEE 516-2003, phase-to-phase voltages, with appropriate altitude correction factors applied.
- R1.3. All personnel directly involved in the design and implementation of the TVMP shall hold appropriate qualifications and training, as defined by the Transmission Owner, to perform their duties.
- R1.4. Each Transmission Owner shall develop mitigation measures to achieve sufficient clearances for the protection of the transmission facilities when it identifies locations on the ROW where the Transmission Owner is restricted from attaining the clearances specified in Requirement 1.2.1.
- R1.5. Each Transmission Owner shall establish and document a process for the immediate communication of vegetation conditions that present an imminent threat of a transmission line outage. This is so that action (temporary reduction in line rating, switching line out of service, etc.) may be taken until the threat is relieved.
- R2. The Transmission Owner shall create and implement an annual plan for vegetation management work to ensure the reliability of the system. The plan shall describe the methods used, such as manual clearing, mechanical clearing, herbicide treatment, or other actions. The plan should be flexible enough to adjust to changing conditions, taking into consideration anticipated growth of vegetation and all other environmental factors that may have an impact on the reliability of the transmission systems. Adjustments to the plan shall be documented as they occur. The plan should take into consideration the time required to obtain permissions or permits from landowners or regulatory authorities. Each Transmission Owner shall have systems and procedures for documenting and tracking the planned vegetation management work and ensuring that the vegetation management work was completed according to work specifications.
- **R3.** The Transmission Owner shall report quarterly to its RRO, or the RRO's designee, sustained transmission line outages determined by the Transmission Owner to have been caused by vegetation.
  - **R3.1.** Multiple sustained outages on an individual line, if caused by the same vegetation, shall be reported as one outage regardless of the actual number of outages within a 24- hour period.
  - **R3.2.** The Transmission Owner is not required to report to the RRO, or the RRO's designee, certain sustained transmission line outages caused by vegetation: (1) Vegetationrelated outages that result from vegetation falling into lines from outside the ROW that result from natural disasters shall not be considered reportable (examples of disasters that could create non-reportable outages include, but are not limited to, earthquakes, fires, tornados, hurricanes, landslides, wind shear, major storms as defined either by the Transmission Owner or an applicable regulatory body, ice storms, and floods), and (2) Vegetation-related outages due to human or animal activity shall not be considered reportable (examples of human or animal activity shall not be considered reportable (outage include, but are not limited to, logging, animal severing tree, vehicle contact with tree, arboricultural activities or horticultural or agricultural activities, or removal or digging of vegetation).
  - **R3.3.** The outage information provided by the Transmission Owner to the RRO, or the RRO's designee, shall include at a minimum: the name of the circuit(s) outaged, the date, time and duration of the outage; a description of the cause of the outage; other pertinent comments; and any countermeasures taken by the Transmission Owner.
  - e **R3.4.** An outage shall be categorized as one of the following:
    - R3.4.1. Category 1 Grow-ins: Outages caused by vegetation growing into lines from vegetation inside and/or outside of the ROW;
    - **R3.4.2.** Category 2 Fall-ins: Outages caused by vegetation falling into lines from inside the ROW;

ê	R3.4.3. Category 3 — Fall-ins: Outages caused by vegetation falling into lines from outside
8	the ROW.

ate of iolation	7/11/2008
eason for ne non- ompliance	Category 1 transmission vegetation-related outage
eliability npact tatement	This tree contact did not cause any post-contingency violations on the NYSEG transmission system. However, the New York Independent System Operator (NYISO) initiated reliability control actions as a result of the loss of Fraser- Cooper Corners 33 Line (33L). A generation reserve pick up was ordered at 2:49 pm to increase generation east of the Total East interface and lower generation west of the Interface. An associated Alert State was declared at 2:50 pm due to a post contingency STE violation on 92L Leeds- Pleasant Valley for loss of the parallel line 91L Athens- Pleasant Valley. The contingency was cleared at 3:03 pm and the Alert State was terminated at 3:10 pm. Transmission Line 33 was operating at 1,521 amps at the time of the contact, which is 75.3% of the normal summer line rating of 2,020 amps.
litigation lan ncluded?	ja Yes ja No
dditional Co	omments:
Category Line name Operating Date and Line was Length of Tree: Whi Easemen Number of Injuries re	<ul> <li>1 Tree Contact Summary</li> <li>&amp; number: Coopers Corners – Fraser, Line 33</li> <li>voltage: 345 kV</li> <li>time of event: July 11, 2008 2:46 p.m.</li> <li>restored to service: July 11 2008 7:37 p.m.</li> <li>interruption: 4 hours, 51 minutes.</li> <li>te Spruce</li> <li>twidth: 150 feet</li> <li>f customers affected: None.</li> <li>ported: None.</li> </ul>
The energy spruce treat transmiss Mountains tree that of be 51 fee location of centerline the center NYSEG's feet long. visually entree that of	pized conductor on "A" phase sagged into a white the between structure 147 and 148. This span of the tion line is located in a rural area of the Catskill s. The Beaverkill River bisects this span of Line 33. The earne in contact with the conductor was measured to at tall and 16 inches in diameter at the base. The f the tree was measured to be 33 feet from the of the circuit. The outside conductor is 28 feet from the circuit. Span length was calculated (using GIS-based Vegetation Management System) at 1,343 While the line was de-energized, field personnel stimated that the conductor was 10-12 feet above the eaused the line to trip out of service.

information from the fault distance relay. Upon arrival at the site, the crews immediately identified the cause of the trip to be a tree contact based on the discovery of a burned tree top. Once line clearance permission was received to work, the crews proceeded to cut down 2 to 3 trees and reduced the height of 4 to 5 more. Tree removal continued during the week of July 14.

NYSEG has notified its personnel to identify and correct any other similar situations and a detailed investigation is ongoing.

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E Ready to Create Certification Statement

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# Attachment c

Settlement Agreement by and between NYSEG and NPCC, dated June 29, 2009

## SETTLEMENT AGREEMENT OF NEW YORK STATE ELECTRIC & GAS CORPORATION AND NORTHEAST POWER COORDINATING COUNCIL, INC.

#### I. INTRODUCTION

 New York State Electric & Gas Corporation ("NYSEG") and Northeast Power Coordinating Council, Inc. ("NPCC") enter into this Settlement Agreement ("Agreement") to resolve all outstanding issues arising from a preliminary and non-public assessment resulting in NPCC's determination and findings, pursuant to the North American Electric Reliability Corporation ("NERC") Rules of Procedure, of two alleged violations by NYSEG of the NERC Reliability Standard FAC-003-1 requirement 2.

## **II. STIPULATION**

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

#### A Background

- 3. NYSEG is a registered Transmission Owner in New York. NYSEG is a Rochester-based subsidiary of Energy East Corporation, a super-regional energy services and delivery company in the Northeast. NYSEG serves 872,000 electricity customers in New York.
- 4. NYSEG owns and operates a transmission system under the control of the NYISO consisting of 4400 miles of cable rated at various voltages of 69 kV 115kV, 230kV and 345kV. The 230kv transmission line 67 between Stolle Road Substation and Meyer Substation ("Line 67") was involved in the first violation. The 345kv transmission line 33 between Frazier Substation and Coopers Corners Substation ("Line 33") was involved in the second violation.

#### B. <u>Alleged Violation(s)</u>

5. NERC Reliability Standard FAC-003-1 was written with the purpose of improving the reliability of the electric transmission system by preventing outages with vegetation located in the transmission right of ways among other things. Specifically requirement 2 of the standard states:

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

- 6. On April 18, 2008 230kv Line 67 tripped and locked out due to contact/flashover with an estimated 22'tall apple tree in the right of way. There were no System Operating Limits or Interconnection Reliability Operating Limits violated as a result of the tripout. The line outage lasted 424 minutes (7 hours and 4 minutes). NYSEG immediately dispatched crews and patrolled Line 67 to clear the fault and place the line back in service. The patrol did not find any fault and the line was placed back into service. Over the next several days, additional patrols were conducted to identify the cause of the outage. Although NYSEG did not initially find the cause of the outage, NYSEG subsequently identified an apple tree as the likely cause and removed it from the transmission right of way.
- 7. On July 11, 2008 345kv Line 33 tripped and locked out due to contact/flashover with a 51' spruce tree in the transmission right of way. There were no System Operating Limits or Interconnection Reliability Operating Limits as a result of the tripout. NYSEG immediately dispatched crews and patrolled Line 33 to clear the fault and place the line back in service. NYSEG cut the tree and the line was restored. The line outage duration was 291 minutes (4 hours and 51 minutes).

## C. <u>Summary of Findings</u>

#### 8. Violation #1.

NYSEG submitted a Quarterly Vegetation Outage Report on July 18. 2008. The report indicated that on April 18. 2008 at 2023 hours 230kv Line 67 sagged into an apple tree causing the line to trip and lockout. The height of the tree was estimated to be approximately 22'. The Line 67 was loaded at 1120 amps at the time of the incident which is 87% of the normal winter rating of the transmission line. NYSEG also reported an "atypical amount of sag had occurred that caused the contact/flashover with the apple tree." NPCC requested that NYSEG review

their sag calculations of the spans involved in the alleged incidents. NYSEG reviewed and certified the sag calculation to be acceptable.

- 9. NYSEG line crews were dispatched to the area where the problem was suspected based on fault distance relay information. The line crews inspected the line that evening into the early morning on April 19, 2008 and did not find a cause for the fault. NYSEG restored line 67 back in service at 0337 hours on April 19, 2008.
- 10. NYSEG dispatched foot patrol crews on April 19, 21 and 22 to inspect the line for the cause of the outage of April 18, 2008. The crews did not find the cause for the outage. On May 7, 2008 a NYSEG Forester observed burn marks on the bark of an apple tree and surrounding grass area between structures 96 and 97. The apple tree was removed on May 8, 2008.
- 11. NYSEG's Transmission Vegetation Management Program ("TVMP") is called the "Long-Range Right of Way Management Plan for the NYSEG Electric Transmission System." The TVMP sets for Priority 1 and 2 standards based on NERC FAC-003 Clearance Standards. The plan specifies a Clearance 2 distance of 7' for its 230kv transmission lines. This distance was exceeded as the apple tree encroached into this area. NYSEG has calculated the sag calculation for the span between towers 96 and 97 and found them to be acceptable.

The TVMP allows for tall shrubs and small trees to grow in the border or the right of way except on narrower sub-transmission right of ways. The apple tree found is considered a compatible species allowed to grow in the transmission right of way.

NYSEG's records indicate that at the last treatment of the area in 2001 the apple tree was considered a desirable Right of Way ("ROW") species. NYSEG also reported that this apple tree did not pose a risk. In 2001 the NYSEG ROW clearing cycle was 8 years.

NYSEG is currently transitioning from an 8 year cycle to a 6 year cycle. The NYSEG plan is to complete this transition during a 6 year period with full completion by year-end 2011. The 67 line was scheduled for treatment in 2008. NPCC has recommended that NYSEG review its TVMP cycle in lieu of the recent tree contacts in order to improve the reliability of the bulk power system.

12. NYSEG's TVMP describes the timeframes for the aerial and foot patrols that are to be performed as part of their vegetation management program. The first is a helicopter patrol done in the early spring or early summer and the second is a foot patrol designed to identify danger trees along the right of way. The 2007 helicopter patrol was done on July 30. 2007. The 2007 foot patrol was done on January 5, 8 and the 10th. Neither of the patrols identified the apple tree as a potential problem. The apple tree was located in a recreational area where the landowner had requested NYSEG allow certain vegetation to grow. While

NYSEG has no record of acting on the landowners' request, under NYSEG's TVMP apple trees can be allowed in the right-of-way under conductors, subject to minimum Clearance 2 distances, and, accordingly, NYSEG had a practice to accommodate such requests where possible.

#### 13. Violation #2

NYSEG self-reported a vegetation related outage on August 15, 2008. The report indicated that on July 11, 2008 345kV Line 33 flashed over or made contact with a 51' spruce tree in the transmission right of way causing an outage. The Line 33 was loaded at 1521 amps which is 75% of the normal summer rating.

- 14. NYSEG line crews were dispatched to the area where the problem was suspected based on fault distance relay information. The crews found a spruce tree that caused the outage. The tree was removed and line was restored. The outage lasted 4 hours and 51 minutes. NYSEG crews also cut down 2 to 3 trees and reduced the height of 4 to 5 more in the immediate area.
- 15. NPCC Compliance Staff reviewed the NYSEG "Long-Range Right of Way Management Plan for the NYSEG Electric Transmission System." It specifies a clearance 2 distance of 11' for the 345 kV transmission lines. This distance was exceeded as the spruce tree encroached into this area.
- 16. NYSEG's 2007 helicopter patrol for Line 33 was done on February 21, 2007. The 2007 foot patrol was done in October, November and December of 2007. There was no evidence of any problems found according to the reports. However, upon subsequent investigation a NYSEG contract forester recalls identifying the spruce tree at this location from the air as needing to be checked on the ground. This observation was not filed as a formal note, was not included in written records, and there is no evidence that this observation was followed-up on by NYSEG. NYSEG's TVMP will be revised, as set forth in the Mitigation Plan, to ensure that aerial and ground patrol inspection reports will capture all Clearance 2 conditions, as well as any other observations requiring follow-up. In addition, quality assurance/quality control measures will be implemented as part of the TVMP to ensure and improve reliability of the BPS.
- 17. In November 2008, NPCC Compliance Staff requested that NYSEG submit a mitigation plan ("Mitigation Plan"). NYSEG submitted the Mitigation Plan to NPCC on December 22, 2008.
- 18. On June 30, 2008, NYSEG requested settlement discussions with NPCC to address the alleged violations of NERC Reliability Standard FAC-003-1 requirement 2.

19. NPCC has determined a penalty amount of \$250,000 to NYSEG for both violations taking into account NYSEG's commitment to compliance and cooperation during the settlement process.

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

#### A. <u>Statement of NPCC</u>

- 20. NPCC confirmed that NYSEG is registered in the NERC registry as a Transmission Owner and is required to be compliant with FAC-003-1. NPCC has found NYSEG non-compliant with requirement 2 of the standard for both violations described in paragraphs 6 and 13 of this document. NYSEG did not maintain its Clearance 2 requirement of 7' for line 230kv Line 67 and did not maintain its Clearance 2 requirement of 11' for 345kv Line 33 as specified in NYSEG's Long Range Right of Way Management Plan for the NYSEG Electric Transmission System. These distances are classified as Priority 1 distances in the NYSEG document and specify that vegetation that is Priority 1 should be removed immediately. The resulting flashover or contact made with the transmission lines indicate that NYSEG did not properly implement its vegetation management program in allowing both trees to cause line outages on the bulk power system.
- 21. NPCC agrees that this Agreement is in the best interest of the parties and in the best interest of bulk power system reliability.

## B. <u>Statement of NYSEG</u>

- 22. NYSEG neither admits nor denies that the facts set forth and agreed to by the parties for purposes of this Agreement constitute violations of FAC-003-1. NYSEG believes that it is possible that the outage on Line 67 was caused by an apple tree located in a recreation area, but that it was not readily apparent that the apple tree exceeded the Clearance 2 minimum distances. Following the outage, NYSEG followed its standard practice and procedures to clear the fault and place the line back into service. NYSEG also conducted several ground patrols to identify the cause of the fault. While not common, it is not unusual for a fault cause not to be identified conclusively, such examples include weather and human-caused contact. When the apple tree was identified as a potential cause, it was immediately scheduled for removal to ensure there could be no potential impact on Line 67. In all other respects, NYSEG stipulates to the facts set forth in Section II.B. of this Agreement.
- 23 NYSEG has agreed to enter into this Agreement with NPCC to avoid extended litigation with respect to the matters described or referred to herein, to avoid

uncertainty, and to effectuate a complete and final resolution of the issues set forth herein. NYSEG agrees that this Agreement is in the best interest of the parties and is in the best interest of bulk power system reliability.

24 For purposes of this Agreement, NYSEG has agreed to a penalty payment in the amount of \$250,000 ("Payment") in addition to the additional terms and conditions set forth in Section V.

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

25. NYSEG agreed to perform the following actions following discussions with NPCC and NERC<sup>1</sup> regarding both incidents. NYSEG performed a series of remedial actions in addition to removing both trees that were found in the transmission lines right of ways. Specifically NYSEG performed the following actions:

Milestone Activities	Completion Dates			
Remedial Mitigation Actions				
a) Aerial inspection of 100% bulk power system.	8/21/2008			
b) Foot patrol inspection of 100% bulk power system.	9/18/2008			
c) Spot-check audit of FAC-003 completed and accepted by NPCC.	09/15/2008			
<ul> <li>d) Root Cause Analysis of both tree- caused outages prepared and accepted by NYSEG Senior Management and NPCC.</li> </ul>	10/24/2008			
<ul> <li>e) NYSEG remedial actions (a, b and d) completed and certifications submitted to NPCC and NERC.</li> </ul>	10/24/2008			

<sup>&</sup>lt;sup>1</sup> NERC issued a letter on August 18, 2008 to NYSEG and NPCC regarding NERC's decision not to issue a Remedial Action directive based on NYSEG's voluntary and immediate actions taken to address the tree contacts. These actions were certified complete by a NYSEG officer.

Milestone Activities	Completion Dates
<ul> <li>f) Additional training for all NYSEG</li> <li>Foresters regarding FAC-003</li> <li>requirements. (completed and</li> <li>verified by NPCC)</li> </ul>	11/5-6/2008
<ul> <li>g) Additional training for all NYSEG</li> <li>Line Supervisors regarding FAC-</li> <li>003 requirements. (completed and</li> <li>verified by NPCC)</li> </ul>	11/5-6/2008

- 26. On December 22, 2008, NYSEG submitted a Mitigation Plan associated with violations #1 and violation #2 as described in paragraph 6 and 13 of the document. NYSEG removed both trees in the transmission right of way and had both transmission lines restored within 8 hours for both incidents.
- 27. For the purpose of settling any and all disputes arising from NPCC Compliance Staff's review and assessment with respect to the alleged violation of NERC Reliability Standard FAC-003-1 requirements 2, NYSEG and NPCC agree that, on and after the effective date of this Agreement, NYSEG has taken or shall take the following actions:

Milestone Activity	Proposed/Actual Completion Date*
	(shall not be more than 3 months apart)
Additional Mitigat	tion Actions
a) Obtain Independent Transmission	11/06/2008
System Assessment: field	
inspection of bulk power system.	
(completed and verified by NPCC)	
b) Commission Independent	11/12/2008
Transmission System Assessment:	
evaluation of Transmission	
Vegetation Management Plan	-
(TVMP). (completed and verified	
by NPCC)	
c) Create NYSEG corporate forester	1/30/2009
position responsible for TVMP	
revisions, implementation, and	
Settlement Agreement NVSEC and NDCC	

Milestone Activity	Proposed/Actual Completion Date*
QA/QC. (completed and verified by NPCC)	(shan not be more than 5 months apart)
d) Revise TVMP to remove discretion regarding non-desirable species.	6/30/2009
e) Implement FERC Model Compliance Program developed by a utility consortium, including a Reliability Compliance Section, consistent with NYSEG's Culture of Compliance and compliance program.	6/30/2009
<ul> <li>f) Implement TVMP standard QA/QC program, standardized forms and record retention.</li> </ul>	7/31/2009
<ul> <li>g) Conduct training for all NYSEG</li> <li>Foresters (and forestry contractors)</li> <li>on revised TVMP for bulk power</li> <li>system.</li> </ul>	7/31/2009
h) Conduct training for all NYSEG Line Supervisors on revised TVMP for bulk power system.	7/31/2009
i) Create LiDAR survey schedule of bulk power system	7/31/2009
<ul> <li>j) Implement LiDAR survey for scheduled 2009 bulk power system</li> </ul>	12/31/2009
<ul> <li>k) Evaluate potential improvements by reducing TVMP cycle for bulk power system from 6 years to 5 years in relation to Additional Enhancements described herein.</li> </ul>	12/31/2009

In order to facilitate NYSEG's need to communicate the status and provide accountability to the ERO (NERC), NYSEG will provide quarterly or more frequently, upon request by NPCC, updates using the forms and format in Attachment A. NYSEG will submit these status updates to NPCC in accordance with the confidentiality provisions of Section 1500 of the NERC Rules of Procedure.

## i. Payment to NPCC

Based on NYSEG's mitigation of the alleged violations the above actions taken or to be taken by NYSEG, then NYSEG agrees to pay (the Payment) to NPCC. In agreeing with the Payment, NPCC has taken into consideration NYSEG's cooperation exhibited during the investigation, NYSEG's self-reporting of the second violation, NYSEG President & CEO's commitment in enhancing reliability within the NYSEG footprint and improving the NYSEG culture of compliance.

## ii. Timing of Payment

NYSEG shall remit the Payment to NPCC, via wire transfer to an account to be identified by NPCC ("NPCC Account"). By the later of (i) twenty days after this Agreement is either approved by the Commission or by operation of law and (ii) twenty days after NPCC provides NYSEG the NPCC Account, NYSEG shall remit the Payment. NPCC shall notify NERC if the payment is not timely received. If NYSEG does not remit the Payment by the required date, interest payable to NPCC will begin to accrue pursuant to FERC's regulations at 18 C.F.R. § 35.19a(a)(2)(iii) from the date that payment is due, and shall be payable in addition to the Payment.

## iii. Failure to Comply with this Agreement

Failure of NYSEG to timely remit the Payment, or satisfy any other conditions of this Agreement, shall be deemed to be either the same alleged violation that initiated this Agreement and/or additional violation(s) and may subject NYSEG to new or additional enforcement, penalty or sanction actions in accordance with the NERC Rules of Procedure. NYSEG shall retain all rights to defend against such enforcement actions in accordance with NERC Rules of Procedure. Compliance with this Agreement shall constitute a release with respect to the same alleged violation that initiated this Agreement.

- 28. It is understood that NPCC staff shall track the progress of mitigation plans and any other remedies of this Agreement, including, but not limited to site inspection, interviews, and request other documentation to validate progress and/or completion of the mitigation plans and any other remedies of this Settlement Agreement. Regional Entity shall reasonably coordinate its review and information requests with NYSEG related to this Settlement Agreement.
- 29. The estimated costs to NYSEG to implement the agreed to actions in Section IV is more than \$2,000,000 for 2009. NPCC may audit and inspect financial records to validate actual expenditures with 2009 estimate in this Settlement Agreement. These enhancements to the bulk power system transmission vegetation management program will improve transmission system conditions and reliability. Furthermore, NYSEG estimates that reoccurring costs could exceed

\$2,000,000 annually and that it will provide information on actual costs and an annual report regarding its TVMP during 2010-2015 at NPCC's request. NYSEG will submit these status updates to NPCC in accordance with the confidentiality provisions of Section 1500 of the NERC Rules of Procedure.

## V. ADDITIONAL TERMS

- 30. The signatories to the 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 NPCC or NYSEG has been made to induce the signatories or any other party to enter into the Agreement.
- 31. NPCC 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 the Regional Entity and the NYSEG 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 NPCC will attempt to negotiate a revised settlement agreement with NYSEG including any changes to the settlement 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.
- 32. This Agreement shall become effective upon the Commission's approval of the Agreement by order or operation of law as submitted to it or as modified in a manner acceptable to the parties.
- 33. NYSEG agrees that this Agreement, when approved by NERC and the Commission, shall represent a final settlement of all matters set forth herein and NYSEG waives its right to further hearings and appeal, unless and only to the extent that NYSEG contends that any NERC or Commission action on the Agreement contains one or more material modifications to the Agreement NPCC reserves all rights to initiate enforcement, penalty or sanction actions against NYSEG in accordance with the NERC Rules of Procedure in the event that NYSEG fails to comply with the mitigation plan and compliance program agreed to in this Agreement. In the event NYSEG fails to comply with any of the stipulations, remedies, sanctions or additional terms, as set forth in this Agreement, NPCC will initiate enforcement, penalty, or sanction actions against NYSEG to the maximum extent allowed by the NERC Rules of Procedure, up to the maximum statutorily allowed penalty. NYSEG shall retain all rights to

defend against such enforcement actions, also according to the NERC Rules of Procedure.

- 34. 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.
- 35. 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.
- 36. The Agreement may be signed in counterparts.
- 37. This Agreement is executed in duplicate, each of which so executed shall be deemed to be an original.

Agreed to and accepted: 29/09 te Edward A. Schwerdt

President & CEQ NPCC amb 1 James 1 aurito Presiden & CEO NYSEG

6.23.09 Date



# Attachment d

Mitigation Plan designated as MIT-08-1813, submitted June 30, 2009



# **Mitigation Plan Submittal Form**

Date this Mitigation Plan is being submitted: 06/30/09

## Section A: Compliance Notices & Mitigation Plan Requirements

- A.1 Notices and requirements applicable to Mitigation Plans and this Submittal Form are set forth in "Attachment A - Compliance Notices & Mitigation Plan Requirements" to this form.
- A.2 I have reviewed Attachment A and understand that this Mitigation Plan Submittal Form will not be accepted unless this box is checked.

## Section B: <u>Registered Entity Information</u>

B.1 Identify your organization: New York State Electric and Gas Corporation (NYSEG)

Company Name: NYSEG Company Address: 89 East Ave Rochester, NY 14649 NERC Compliance Registry ID: NCR07181

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

Michael Conroy
Vice President, Operations
michael_conroy@rge.com
585-724-8176



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

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

Applicable Standard, Requirement(s) and dates:

NERC Violation ID	Reliability	Requirement	Violation	Alleged or	Method of
#	Standard	Number	<b>Risk Factor</b>	Confirmed	Detection (e.g.,
				Violation Date <sup>(*)</sup>	Audit, Self-report,
					Investigation)
NPCC200800041	FAC-003	R.2	High	04/18/08	Periodic Submittal
NPCC200800042	FAC-003	R.2	High	07/11/08	Self-report

(\*) Note: The Alleged or Confirmed Violation Date shall be expressly specified by Registered Entity, and subject to modification by NPCC, as: (i) the date the Alleged or Confirmed violation occurred; (ii) the date that the Alleged or Confirmed violation was self-reported; or (iii) the date that the Alleged or Confirmed violation has been deemed to have occurred on by NPCC. Questions regarding the date to use should be directed to the NPCC contact identified in Section G of this form.

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

Two (2) tree-caused outages as follows: (1) on April 18, 2008, an outage on 230 kV transmission line 67 ("Line 67"), and; (2) on July 11, 2008, an outage on 345 kV transmission line 33 ("Line 33"). See Attachment B for additional detailed information.

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

NYSEG immediately responded to both outages and placed the lines back into service within eight (8) hours. There were no customer outages or loss of load in either incident. NYSEG maintained constant and coordinated communication during its immediate remedial responses with the New York Independent System Operator (NYISO) to ensure reliability of the bulk power system. See Attachment B for additional information.



## Section D: Details of Proposed Mitigation Plan

## **Mitigation Plan Contents**

D.1 Identify and describe the action plan, including specific tasks and actions that your organization is proposing to undertake, or which it undertook if this Mitigation Plan has been completed, to correct the Alleged or Confirmed violations identified above in Part C.1 of this form. Additional detailed information may be provided as an attachment:

NYSEG immediately responded to the outages and placed the lines back into service. The NYSEG President and CEO has personally overseen the outage review and mitigation efforts, including providing clear direction and allocating additional resources to ensure reliability. NYSEG conducted 100% aerial and foot patrol inspection of the bulk power system to ensure FAC-003 compliance. NYSEG also completed and certified remedial actions to NERC and NPCC to ensure the reliability of the bulk power system.<sup>1</sup> See Attachment B for additional detailed information.

## **Mitigation Plan Timeline and Milestones**

D.2 Provide the date by which full implementation of the Mitigation Plan will be, or has been, completed with respect to the Alleged or Confirmed violations identified above. State whether the Mitigation Plan has been fully implemented:

The violations have been fully mitigated through remedial actions taken to date. The Company immediately responded to both outages and placed the lines back into service within eight (8) hours. When the Company determined the causes of the outages, the trees were removed the next day. The Company then conducted a 100% aerial patrol of its Bulk Power System to identify and correct any minimum clearance (NYSEG's Transmission Vegetation Management Program (TVMP) Priority 1, i.e., NERC Clearance 2) exceedances; none were identified. In addition, the Company conducted a 100% foot patrol of its Bulk Power System to identify and correct any Clearance 2 exceedances; none were identified. Subsequently, the NPCC conducted an on-site Spot-Check of audit of FAC-003 (RSAW) was completed and accepted by NPCC. Finally, the Company certified to NERC and NPCC that all remedial actions were completed.

<sup>&</sup>lt;sup>1</sup> NERC issued a letter on August 18, 2008, to NYSEG and NPCC regarding NERC's decision not to issue a Remedial Action directive based on NYSEG's voluntary and immediate actions taken to address the tree contacts.



The Company has included a number of FAC-003 program enhancements in the Mitigation Plan, which will be implemented, as set forth in Section D.3, during 2009.



D.3 Enter Milestone Activities, with due dates, that your organization is proposing, or has completed, for this Mitigation Plan:

	Milestone Activity	Proposed/Actual Completion Date* (shall not be more than 3 months apart)				
	Immediate Remedial Mitigation Actions					
a) Ae sys	erial inspection of 100% bulk power stem.	8/21/2008				
b) Fo po	oot patrol inspection of 100% bulk over system.	9/18/2008				
c) Sp co	pot-check audit of FAC-003 mpleted and accepted by NPCC.	09/15/2008				
d) Ro car by NI	bot Cause Analysis of both tree- used outages prepared and accepted NYSEG Senior Management and PCC.	10/24/2008				
e) N d)o su	YSEG remedial actions (a, b and completed and certifications bmitted to NPCC and NERC.	10/24/2008				
f) Ac Fo rec	dditional training for all NYSEG presters regarding FAC-003 quirements.	11/5-6/2008				
g) Ac Su rec	dditional training for all NYSEG Line pervisors regarding FAC-003 quirements.	11/5-6/2008				
	Additional Mitigation Actions					
a) Ot Sy bu	btain Independent Transmission ystem Assessment: field inspection of alk power system.	11/06/2008				
b) Co Sy Tr Pla	ommission Independent Transmission ystem Assessment: evaluation of ansmission Vegetation Management an (TVMP).	11/12/2008				
c) Cr po rev	reate NYSEG corporate forester sition responsible for TVMP visions, implementation, and QA/QC.	1/30/2009				
d) Re reş	evise TVMP to remove discretion garding non-desirable species.	6/30/2009				



Additional Mitigation Actions (cont.)				
e)	Implement FERC Model Compliance Program developed by a utility consortium, including NERC Compliance Section, consistent with NYSEG's Culture of Compliance and compliance program.	6/30/2009		
f)	Implement TVMP standard QA/QC program, standardized forms and record retention.	7/31/2009		
g)	Conduct training for all NYSEG Foresters (and forestry contractors) on revised TVMP for bulk power system.	7/31/2009		
h)	Conduct training for all NYSEG Line Supervisors on revised TVMP for bulk power system.	7/31/2009		
i)	Create LiDAR survey schedule of bulk power system	7/31/2009		
j)	Implement LiDAR survey for scheduled 2009 bulk power system	12/31/2009		
k)	Evaluate potential improvements by reducing TVMP cycle for bulk power system from 6 years to 5 years in relation to Additional Enhancements described herein.	12/31/2009		

(\*) Note: Implementation milestones no more than three (3) months apart are permissible only 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.

## Section E: Interim and Future Reliability Risk

## Abatement of Interim BPS Reliability Risk

E.1 While your organization is implementing this Mitigation Plan the reliability of the Bulk Power System (BPS) may remain at higher risk or be otherwise negatively impacted until the plan is successfully completed. To the extent they are, or may be, known or anticipated: (i) identify any such risks or impacts; and (ii) discuss any actions that your organization is planning to take to mitigate this



NORTHEAST POWER COORDINATING COUNCIL, INC. 1515 BROADWAY, NEW YORK, NY 10036-8901 TELEPHONE: (212) 840-1070 FAX: (212) 302-2782 increased risk to the reliability of the BPS. Additional detailed information may be provided as an attachment:

NYSEG certified completion of all NERC and NPCC remedial actions to ensure reliability of bulk power system while implementing this Mitigation Plan. These remedial actions included all inspection and assessment. Analysis of information from these actions confirms that the bulk system rights-of-way are currently in adequate condition, including free from all priority work, and meet or exceed FAC 003 standards. See Attachment B for additional detailed information. Additional program enhancements, as set forth in Section D.3. above, are included in this Mitigation Plan to further improve vegetation management on the bulk power system.



## **Prevention of Future BPS Reliability Risk**

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

NYSEG's immediate remedial actions, including 100% aerial and foot patrol inspections of the bulk power system and NPCC spot-check audit (RSAW for FAC-003) of its vegetation management plan, ensured that NYSEG met FAC-003 standards and ensured mandatory reliability. Independent assessment of the bulk power system rights of way verified that they are in excellent condition. The additional mitigation actions address issues identified in the Root Cause Analysis. They provide redundant levels of protection in policy (removal of discretion), oversight (corporate forester focused on transmission), control (QA/QC, standard forms, records retention), and use of technology for better management information (LiDAR). These additional mitigation actions will improve reliability on the bulk power system.

## Section F: <u>Authorization</u>

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

- a) Submits this Mitigation Plan for acceptance by NPCC and approval by NERC, and
- b) If applicable, certifies that this Mitigation Plan was completed on or before the date provided as the 'Date of Completion of the Mitigation Plan' on this form, and
- c) Acknowledges:
  - 1. I am Vice President of New York State Electric and Gas Corporation (NYSEG).
  - 2. I am qualified to sign this Mitigation Plan on behalf of NYSEG.
  - 3. I understand NYSEG'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)).



- 3. I have read and am familiar with the contents of this Mitigation Plan.
- 4. NYSEG agrees to comply with, this Mitigation Plan, including the timetable completion date, as accepted by NPCC and approved by NERC.

Authorized Individual Signature

Muchael Conroy

Name: Michael Conroy Title: Vice President, Operations Date: 06/30/2009



## Section G: <u>Regional Entity Contact</u>

Please direct any questions regarding completion of this form to:

Walter Cintron Manager, Compliance Enforcement Northeast Power Coordinating Council, Inc. 1040 Avenue of the Americas-10<sup>th</sup> Fl. New York, NY 10018-3703



## Attachment A – Compliance Notices & Mitigation Plan Requirements

## NERC Violation ID # NPCC200800041 and NPCC200800042 Mitigation Plan Submittal Attachment A

- I. Section 6.2 of the CMEP<sup>2</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.

<sup>&</sup>lt;sup>2</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.



- (10) The Mitigation Plan shall be signed by an officer, employee, attorney or other authorized representative of the Registered Entity, which if applicable, shall be the person that signed the Self-Certification or Self Reporting submittals.
- II. This submittal form must be used to provide a required Mitigation Plan for review and acceptance by NPCC and approval by NERC.
- III. This Mitigation Plan is submitted to the regional entity(ies) and NERC as confidential information in accordance with Section 1500 of the NERC Rules of Procedure.
- IV. This Mitigation Plan Submittal Form may be used to address one or more related Alleged or Confirmed violations of one Reliability Standard. A separate mitigation plan is required to address Alleged or Confirmed violations with respect to each additional Reliability Standard, as applicable.
- V. If the Mitigation Plan is accepted by NPCC and approved by 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.
- VI. NPCC or NERC may reject Mitigation Plans that they determine to be incomplete or inadequate.
- VII. Remedial action directives also may be issued as necessary to ensure reliability of the BPS.



## Attachment B – Additional Detailed Information

## Mitigation Plan Submittal NERC Violation ID # NPCC 200800041 and NPC200800042 Attachment B

New York State Electric & Gas Corporation ("NYSEG" or the "Company") hereby provides additional detailed information for its Mitigation Plan Submittal regarding the cause of the Violation, relevant information, and additional detail associated with this Mitigation Plan.

## Sections C.2 and C.3

On April 18<sup>th</sup> and July 11<sup>th</sup>, 2008 there were vegetation (tree) caused outages on NYSEG's electric bulk power system, occurring on the 67 Line in the Lancaster division and the 33 Line in Liberty division (collectively the "Outages"). NYSEG reported these Outages to the Northeast Power Coordinating Council (NPCC) and performed remedial actions to ensure the reliability of the bulk power system. NYSEG disclosed the tree-caused outages in a timely manner, including a self-report of the second incident consistent with FERC's July 3, 2008, guidance, and has made every effort to provide itself, NPCC, and NERC with information to ensure the reliability of the bulk power system. The Company has been notified by the NPCC that these two tree-caused outages may be in violation of North American Electric Reliability Corporation (NERC) Reliability Standard FAC 003-1, Vegetation Management Program (FAC 003-1).

NPCC issued the company two "Preliminary Notice of Alleged Violation" letters, and has requested various information from the Company, including the "Long Range Right-of-Way Management Plan for the NYSEG Electric Transmission System" dated April 25, 2007 (i.e., Transmission Vegetation Management Plan - TVMP) and related inspection and maintenance records. On September 15, 2008, two NPCC staff members met with Company personnel to review compliance with FAC 003-1 pursuant to their Spot-Check Audit, as well as discuss other documentation provided regarding the 67 and 33 Line Outages. NERC requested that the Company certify to NPCC that it had completed remedial actions to ensure the reliability of the bulk power system and the Company subsequently certified to NPCC that it has completed its remedial actions, including that aerial and foot-patrols of the Company's entire bulk power system electric transmission lines identified no other vegetation in the NERC Clearance 2 zone (also

## NORTHEAST POWER COORDINATING COUNCIL INC. NPCC, Inc. 1515 BROADWAY, NEW YORK, NY 10036-8901 TELEPHONE: (212) 840-1070 FAX: (212) 302-2782 identified in the TVMP as Priority 1 Clearance). <sup>3</sup> NYSEG has cooperated in the NPCC's investigation, making the investigation a top priority and responding to all requests for information on a real time basis. The Company also agreed to provide a root cause analysis for the outages to NPCC.

In addition to the initial remedial actions, the Company has initiated a thorough review of the vegetation management program, including an Independent/Third-Party Consultant review of the TVMP and vegetation conditions on the bulk power system transmission line right-of-way.

The next sections describe each event in more detail followed by the Company's conclusion on the root cause.

## 67 Line Event Description

On April 18, 2008, it is our understanding that the 67 Line either came in contact with or flashed over onto an apple tree in the Bryncliff recreational area causing the line to trip and lockout. The 67 Line is a 230kV transmission line in the Lancaster operations division between Stolle Road and Meyer substations. NYSEG responded immediately after the system operator received alarm indicating a trip and lockout in accordance with its procedures to clear the fault and put the line back in service. The line was inspected and when they determined there was no continuing fault condition, the line was placed back into service that same night. The tree that we now assume caused the outage was an apple tree which is classified as a tall shrub and small tree in the TVMP. This type of tree is classified as a desirable species in the TVMP.

The cause of the outage was not initially identified as a tree contact. NYSEG division line crews were sent to the area where the problem was suspected to have occurred based on information from the fault distance relay. The line crew inspected the length of the line on the evening of 4/18/08 and into the early morning on 4/19/08 and did not find a cause for the fault. The line was re-energized and put back into service at 03:37 on 4/19/08 and there were no additional faults or outages. Three subsequent foot patrols (walking east to west) conducted on April 19, 21 and 22 to inspect the line and determine the cause of the outage did not identify the apple tree as the cause of the outage. Line supervisors, the Division Forester and line crews were involved in these patrols.

A potential cause of the outage was found on May 7, 2008 when the Division Forester was performing the ROW vegetation inventory while planning the scheduled treatment for 2008. While walking the line from west to east, he observed burn marks on

<sup>&</sup>lt;sup>3</sup> NERC issued a letter on August 18, 2008, to NYSEG and NPCC regarding NERC's decision not to issue a Remedial Action directive based on NYSEG's voluntary and immediate actions taken to address the tree contacts.



NORTHEAST POWER COORDINATING COUNCIL, INC. NPCC, Inc. 1515 BROADWAY, NEW YORK, NY 10036-8901 TELEPHONE: (212) 840-1070 FAX: (212) 302-2782 the bark of the tree and surrounding grass area. The apple tree was removed on May 8, 2008.

The property is adjacent to recreational ski trails and the Division Forester stated that the landowner had previously expressed concern about cutting trees because he wanted to maintain as much vegetation as possible. The Division Forester and the landowner verbally agreed that the company would leave the low growing desirable tree species and only cut as required.

## 33 Line Event Description

On July 11, 2008, the 33 Line came into contact with or flashed over onto a spruce tree causing the line to trip and lockout. The 33 Line is a 345kV transmission line in the Liberty operations division between Coopers Corners and Fraser substations. The spruce tree was located five feet to the side of the outside conductor. Spruce trees are classified in the TVMP as a tall growing tree that is considered undesirable in most right-of-way situations and should be removed from the right-of-way floor wherever practicable, to the extent permitted by landowner constraints and easement conditions.

NYSEG responded immediately after the System Operator received alarms indicating a trip and lockout. Two NYSEG division line crews were sent to the area where the problem was suspected to have occurred based on information from the fault distance relay. Upon arrival at the site that same day (July 11<sup>th</sup>), the crews immediately identified the cause of the trip to be a tree contact based on the identification of a burned tree top. Once clearance was received to work from System Operations, the crews proceeded to cut down the tree that caused the interruption and reduced the height of (or "topped") other trees in the vicinity.

#### Root Cause Analysis

The root causes of the tree caused outages are the cumulative effect of the following:

- 1. Trees were allowed to remain on the ROW beneath and beside transmission lines; and,
- 2. The TVMP allowed field operations and forestry personnel to exercise discretion in allowing trees to remain on the ROW and did not provide sufficient training, procedures or tools by which to exercise that discretion appropriately in these instances.

## Section D.1

# PCC, Inc.

NORTHEAST POWER COORDINATING COUNCIL, INC. 1515 BROADWAY, NEW YORK, NY 10036-8901 TELEPHONE: (212) 840-1070 FAX: (212) 302-2782

NYSEG has a strong culture of compliance and the Company provided extensive documentation to NPCC regarding its "Culture of Compliance," including substantial attention and activities relating to FERC compliance, Electric Reliability Organization and Cyber Security Standards/Critical Infrastructure Protection standards. For example, the Company recently concluded a successful Readiness Evaluation and Report which recognized the Company's Culture of Compliance (*"the evaluation team learned that reliability is a top priority for the company; it is part of the regularly scheduled management review meetings, second only to safety as an agenda item."*) The Company has not previously violated a NERC standard, and, in fact, the Company has been a long-time leader in the regional bulk power system compliance effort, including participation in NYS Reliability Council, the NPCC Reliability Committee, and NERC. A Company senior executive currently serves as Vice Chair of the NPCC Reliability Coordinating Committee and on the NERC Planning Committee.

There has been personal and extensive involvement of senior management, including NYSEG President & CEO, NYSEG VPs of Technical Services and Operations, Energy East VP and General Counsel, and Energy East FERC Compliance Officer to ensure proper identification of root causes, effective remediation, and development of a mitigation plan to improve reliability on the bulk power system.

In each incident field personnel were dispatched immediately to identify and clear the cause of the outage. The lines were patrolled and placed back in service in less than eight (8) hours without loss of load or service to customers.

The tree that caused the outage in each incident removed from right-of-way within 26-hours of identification. Repeated foot patrols were conducted to determine cause of outage on the 67 Line in accordance with established procedures. These patrols involved experienced Company line mechanics, line supervisors and the division forester.

NYSEG completed aerial patrols of all transmission lines operated at 200 kV and above. The aerial patrols started on 8/12/08 and were completed on 8/21/08. All patrols were conducted by a line supervisor who had been a forester to ensure consistent, independent judgment and reporting. Aerial patrol inspections found no further encroachments of Clearance 2 zone in the entire 787 miles, or14,500 estimated acres, of bulk power system transmission right-of-way.

NYSEG completed foot patrols of all transmission lines operated at 200kV and above. The foot patrols were conducted by NYSEG foresters accompanied by a contract tree crew. The patrols started on 8/11/08 and were completed on 9/18/09. No further encroachments of the Clearance 2 zone were found on the entire bulk power system.

Engineering sag calculations for the Fraser-Coopers Corners 345 kV line segment were completed on 8/22/08 for the segment of the line in question. No issues or



shortcomings were identified. Engineering sag calculations for Stolle-Meyers 230 kV line segment were completed on 7/9/08 for the segment of the line in question. The line design was found to be adequate with no issues or shortcomings.

Based on its investigation, a Root Cause Analysis of both tree contact incidents was prepared and submitted to NPCC. NYSEG has proposed additional mitigation actions to address the root causes and improve reliability on the bulk power system.

NYSEG also retained an independent third party expert to evaluate the Company's vegetation management practices on the transmission system, including program and field conditions review. The independent assessment included spot checks on randomly selected sections and found no Clearance 2 zone encroachments.

Aerial patrols, foot patrols and independent assessment have not identified additional encroachments of Clearance 2 zone. All indications suggest that the contacts were isolated occurrences and that the rights of way are currently in excellent condition.

Therefore NYSEG's focus is on enhancements to its program, policies and practices to address the identified root causes and to improve reliability on the bulk power system. Additional mitigation actions, as set forth in this Mitigation Plan, include:

- Obtain Independent Transmission System Assessment: field inspection of bulk power system.
- Commission Independent Transmission System Assessment: evaluation of Transmission Vegetation Management Plan (TVMP).
- Create NYSEG corporate forester position responsible for TVMP revisions, implementation, and QA/QC.
- Revise TVMP to remove discretion regarding non-desirable species.
- Implement TVMP standard QA/QC program, standardized forms and record retention.
- Conduct training for all NYSEG Foresters on revised TVMP for bulk power system.
- Conduct training for all NYSEG Line Supervisors on revised TVMP for bulk power system.
- Create LiDAR survey schedule of bulk power system.
- Implement LiDAR survey for scheduled 2009 bulk power system.
- Implement FERC Model Compliance Program, including NERC Compliance Section, consistent with NYSEG's Culture of Compliance and compliance program.



# Attachment e

# NYSEG's Certification of Completion of the Mitigation Plan, dated December 28, 2009



## Certification of a Completed Mitigation Plan

## NPCC **Violation Mitigation Plan Closure Form**

Name of registered entity submitting certification: New York State Electric and Gas Corporation (NYSEG)

Date of Certification<sup>1</sup>: December 28, 2009

Name of Standard and the Requirement of which a violation was mitigated: FAC-003

Date of the Mitigation Plan submittal<sup>2</sup>: 06/30/09

Date of completion of the Milestone Activities in Mitigation Plan<sup>3</sup>: 12/21/09

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

Please provide any additional information required for NPCC to verify completion of the mitigation plan.

Name: Michael H. Conroy Title: Vice President - Electrical Transmission and Distribution Entity: NYSEG Email: michael\_conroy@rge.com Phone: (585) 724-8176

Michael (Jana Date: December 28, 2009 **Executive Signature** 

An equal opportunity employer

Page 1 of 2

James A. Carrigg Center | 18 Link Drive | P.O. Box 5224 | Binghamton, NY 13902-5224

<sup>&</sup>lt;sup>1</sup> This date has to be the same as the signature date <sup>2</sup> The date final Mitigation Plan has been signed

<sup>&</sup>lt;sup>3</sup> The completion date for the last Milestone Activity



# Attachment f

# NPCC's Verification of Completion of the Mitigation Plan, dated January 5, 2010



NORTHEAST POWER COORDINATING COUNCIL, INC. 1040 AVE OF THE AMERICAS, NEW YORK, NY 10018 TELEPHONE (212) 840-1070 FAX (212) 302-2782

## Confidential

Date: January 5, 2010

To: Mr. Michael Conroy

Re: NERC Violation # NPCC200800041, NPCC200800042

This letter is to notify you that on January 5, 2010, NPCC verified the completion of the Mitigation Plan NERC # MIT08-1813 submitted on June 30, 2009. This verification is based on NYSEG's Certification of Completion on December 28, 2009.

NPCC thanks you for your cooperation in this matter and for improving the reliability of the bulk electric system.

Please do not hesitate to call if you have any questions regarding this issue.

Sincerely,

Walter Cintron Manager, Compliance Enforcement Tel: 212 840-1070 Fax: 212 302-2782 wcintron@npcc.org



# Attachment g

**Notice of Filing** 

## UNITED STATES OF AMERICA FEDERAL ENERGY REGULATORY COMMISSION

New York State Electric & Gas Corporation Docket No. NP10-\_\_\_-000

## NOTICE OF FILING February 1, 2010

Take notice that on February 1, 2010, the North American Electric Reliability Corporation (NERC) filed a Notice of Penalty regarding New York State Electric & Gas Corporation in the Northeast Power Coordinating Council, Inc. region.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at http://www.ferc.gov. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

This filing is accessible on-line at http://www.ferc.gov, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, D.C. There is an "eSubscription" link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: [BLANK]

Kimberly D. Bose, Secretary