



NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

March 31, 2010

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

**Re: NERC Notice of Penalty regarding Consumers Energy Company
FERC Docket No. NP10-_-000**

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Notice of Penalty¹ regarding Consumers Energy Company (Consumers Energy), NERC Registry ID# NCR00740,² in accordance with the Federal Energy Regulatory Commission's (Commission or FERC) rules, regulations and orders, as well as NERC Rules of Procedure including Appendix 4C (NERC Compliance Monitoring and Enforcement Program (CMEP)).³

On September 16, 2008, Consumers Energy self-reported its non-compliance with PRC-005-1 Requirement (R) 1 to ReliabilityFirst Corporation (ReliabilityFirst) for its failure to include voltage and current sensing devices, station batteries, and DC control circuitry associated with protective relays in its Protection System Maintenance and Testing Program. This Notice of Penalty is being filed with the Commission because, based on information from ReliabilityFirst, ReliabilityFirst and Consumers Energy have entered into a Settlement Agreement to resolve all outstanding issues arising from a preliminary and non-public assessment resulting in ReliabilityFirst's determination and findings of the enforceable alleged violation of PRC-005-1 R1. According to the Settlement Agreement, Consumers Energy neither admits nor denies the alleged violations, but has agreed to the proposed penalty of fifteen thousand dollars (\$15,000) to be assessed to Consumers Energy, in addition to other remedies and actions to mitigate the

¹ *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards* (Order No. 672), III FERC Stats. & Regs. ¶ 31,204 (2006); *Notice of New Docket Prefix "NP" for Notices of Penalty Filed by the North American Electric Reliability Corporation*, Docket No. RM05-30-000 (February 7, 2008). See also 18 C.F.R. Part 39 (2009). *Mandatory Reliability Standards for the Bulk-Power System*, FERC Stats. & Regs. ¶ 31,242 (2007) (Order No. 693), *reh'g denied*, 120 FERC ¶ 61,053 (2007) (Order No. 693-A). See 18 C.F.R. § 39.7(c)(2).

² ReliabilityFirst Corporation confirmed that Consumers Energy was included on the NERC Compliance Registry as a Load Serving Entity, Generator Operator, Generator Owner, Distribution Provider, Resource Planner, and Purchasing Selling Entity on May 30, 2007. Consumers Energy is also registered as a Balancing Authority as of January 8, 2009 and has Balancing Authority responsibilities under the Joint Registration Organization (JRO ID# JRO00001) which was effective on September 11, 2009. As a Distribution Provider and Generator Owner, Consumers Energy is subject to the requirements of NERC Reliability Standard PRC-005-1.

³ See 18 C.F.R. § 39.7(c)(2).

instant violations and facilitate future compliance under the terms and conditions of the Settlement Agreement. Accordingly, the alleged violation identified as NERC Violation Tracking Identification Number RFC200800077 is being filed in accordance with the NERC Rules of Procedure and the CMEP.

Statement of Findings Underlying the Alleged Violation

This Notice of Penalty incorporates the findings and justifications set forth in the Settlement Agreement executed on October 2, 2009, by and between ReliabilityFirst and Consumers Energy, which is included as Attachment b. 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 (\$)
ReliabilityFirst	Consumers Energy	NOC-392	RFC200800077	PRC-005-1	1	High ⁴	15,000

PRC-005-1 R1

The purpose of Reliability Standard PRC-005-1 is to ensure all transmission and generation Protection Systems⁵ affecting the reliability of the bulk power system (BPS) are maintained and tested.

PRC-005-1 R1 requires each Distribution Provider that owns a transmission Protection System and each Generator Owner that owns a generation Protection System, such as Consumers Energy, to have a Protection System maintenance and testing program for Protection Systems that affect the reliability of the BPS. The program shall include: (R1.1) maintenance and testing intervals and their basis and (R1.2) a summary of maintenance and testing procedures. PRC-005-1 R1 and its sub-requirements each have a "High" Violation Risk Factor (VRF).

On September 16, 2008, Consumers Energy self-reported its failure to include, in its Generation Reliability Compliance Program (GRCP), voltage and current sensing devices, station batteries, and DC control circuitry associated with protective relays in its *Protection System Maintenance*

⁴ When NERC filed Violation Risk Factors (VRFs), it originally assigned PRC-005-1 R1 a "Medium" VRF. The Commission approved the VRF as filed; however, it directed NERC to submit modifications. NERC submitted the modified "High" VRF, which the Commission approved on August 6, 2007. Therefore, the "Medium" VRF for PRC-005-1 R1 was in effect from June 18, 2007 until August 6, 2007 when the "High" VRF became effective.

⁵ The NERC Glossary of Terms Used in Reliability Standards, updated April 20, 2009, defines Protection System as "Protective relays, associated communication systems, voltage and current sensing devices, station batteries and DC control circuitry."

and Testing Program as required by PRC-005-1 R1. Consumers Energy did have a protective relay testing and maintenance program in place; however, although the GRCP did not include station batteries, voltage and current sensing devices and DC control circuitry associated with protective relays, testing and maintenance on some of these items have been performed and documented. Consumers Energy stated that testing and maintenance of voltage and current sensing devices were not included in the GRCP and had not been performed, and testing and maintenance on DC control circuits associated with protective relays had been completed on five (5) units. Consumers Energy later stated in an April 9, 2009 response to a ReliabilityFirst request for information that although station batteries were not included within the Consumers Energy GRCP, all station batteries had been tested and maintained and testing records were available. However, prior to the self-report, some of the Consumers Energy plants retained records for less than the three years required by the data retention requirement in PRC-005-1. In the Campbell 3 Plant, battery banks were replaced in 2007 and the records for the replaced banks were not kept. The Campbell 3 Plant did have records for 2007 and 2008 for the new battery banks. In the Zeeland 1A, 1B and Combined Cycle Plant, which Consumers Energy bought in 2007, Consumers Energy did not have 2006 records but did have records available since Consumers Energy assumed ownership in 2007. In the Thetford 1-9 Combustion Turbines Plant, Consumers Energy did not have test records for 2006 or 2008, but did have records available for 2007.

On March 13, 2009, ReliabilityFirst requested more information from Consumers Energy. On April 9, 2009, Consumers Energy provided additional information regarding the alleged violation. Consumers Energy stated that, prior to the self-report, the DC Control Circuits testing and maintenance had not been performed on 38 units. Consumers Energy also provided a copy of the GRCP in effect at the time of the alleged violation, as well as a summary table which indicated that 697 relays and 3 communication systems were included in the GRCP both before and after the self-report. In addition, Consumers Energy indicated that 649 voltage transformers (VTs) and current transformers (CTs), 27 banks of batteries, and 43 DC Control Circuits were not included in the GRCP before the self-report, but were added to the GRCP after the self-report. Consumers Energy indicated that although batteries were not included in the GRCP prior to the self-report, testing, maintenance and testing was performed on the batteries prior to the self-report. Consumers Energy indicated that no abnormal equipment problems had been observed for the VTs and CTs, batteries, or DC Control Circuits that were not included in the GRCP before the self-report. In addition, Consumers Energy indicated that 478 of the 649 VTs and CTs are continuously monitored, or would trip the unit if failure occurred, and reiterated that 5 of the 43 DC Control Circuits had previously been tested prior to inclusion in the GRCP.

ReliabilityFirst determined that the alleged violations did not create a serious or substantial risk to the BPS because (1) all generating plant station batteries have been tested and maintained and testing records are available; however, not all plants retained the records for the three years as required by the Standard; (2) voltage and current sensing devices associated with protective relays were being identified into three categories and the category that required testing was a small subset of the total devices identified; and (3) testing and maintenance of DC Control Circuits had been completed on five units; the testing and maintenance on the remaining units would be completed during planned maintenance outages; the reliability of these circuits is extremely high.

ReliabilityFirst Enforcement conducted a compliance assessment and concluded, consistent with Consumers Energy's self-report, that Consumers Energy had an alleged violation of PRC-005-1 R1 because the evidence reviewed showed that the earlier version of its GRCP did not include details on the maintenance and testing intervals and their basis for components such as VTs, CTs, batteries and DC control circuitry. ReliabilityFirst determined the duration of the alleged violation to be from June 18, 2007, the date the Standard became enforceable, through December 31, 2008, the date that Consumers Energy completed its Mitigation Plan.

Regional Entity's Basis for Penalty

According to the Settlement Agreement, ReliabilityFirst has assessed a penalty of fifteen thousand dollars (\$15,000) for this violation. In reaching this determination, ReliabilityFirst considered the following factors: (1) Consumers Energy self-reported the alleged violation; (2) Consumers Energy was cooperative and open throughout the enforcement process; (3) there was no serious or substantial risk to the bulk power system, as discussed above; and (4) Consumers Energy has no prior violation of this standard or any closely-related standard. In addition, there were no aggravating circumstances.

Additionally, according to the Settlement Agreement, ReliabilityFirst considered Consumers Energy Compliance Culture. ReliabilityFirst found certain aspects of Consumers Energy's compliance program noteworthy including that the compliance program at Consumers Energy has the support of senior management. Senior management supports its internal compliance program through quarterly review of regulatory compliance issues, including NERC, at the Consumers Compliance Review Committee meetings and by ensuring completion of compliance training programs. The company maintains a Statement of FERC Compliance Policy which makes explicit reference to the NERC Standards, and the NERC compliance program has assigned roles and responsibilities to appropriate employees at each business unit. Accountable Authorities have been identified and are responsible for ensuring compliance with the Standards. The Accountable Authorities report to senior management, including the chief compliance officer (CCO), and the CCO reports semiannually to the Audit Committee and annually to the full Board of Directors on the status of compliance. Participation and support is available from the CCO's staff, the Legal Department and other areas. In addition, the Consumers Energy Compliance Department has a continuous communication program that routinely distributes ethics, code of conduct and policy communication on compliance topics to all employees and contractors, consultants and agents. A fundamental element of the Consumers Energy compliance program is employee training, which features online courses for salaried employees and classroom-style courses for operations and union employees. The internal compliance program requires self-assessments to be conducted by Compliance Assurance Managers and Accountable Authorities. In addition, Consumers Energy has recently developed an Issue Resolution Form and FERC Compliance Log. As issues are discovered, the compliance department completes an Issue Resolution Form, which requires identification of the issue, a description of how the issue was discovered, how many times the issue occurred, what steps are needed to correct the issue, and what steps are being taken to ensure that the issue is not repeated.

After consideration of the above factors, ReliabilityFirst determined that, in this instance, the penalty amount of fifteen thousand dollars (\$15,000) is appropriate and bears a reasonable relation to the seriousness and duration of the alleged violations.

Status of Mitigation Plan⁶

Consumers Energy's Mitigation Plan to address its violation of PRC-005-1 R1 was submitted to ReliabilityFirst on September 16, 2008,⁷ with a completion date of December 31, 2008. The plan was accepted by ReliabilityFirst on February 18, 2009, and approved by NERC on February 25, 2009. The Mitigation Plan for this violation is designated as MIT-08-1418 and was submitted as non-public information to FERC on February 27, 2009 in accordance with FERC orders.

Specifically, Consumers Energy's approved Mitigation Plan required Consumers Energy to take the following steps:

1. identify voltage and current sensing devices associated with Protection System relays by November 1, 2008;
2. incorporate the voltage and current sensing devices associated with Protection System relays into the GRCP requirements by December 15, 2008;
3. incorporate the voltage and current sensing devices associated with Protection System relays into the associated relay testing beginning in 2009;
4. specifically identify associated Relay DC Control Circuits to be included in the scope of the GRCP by December 31, 2008;
5. incorporate DC Control Circuit testing into GRCP requirements by December 15, 2008;
6. develop DC Control Circuit test procedures for facilities requiring testing by December 31, 2008;
7. revise and implement GRCP-25.5 *Transmission and Generation Protection System Maintenance and Testing* procedure with updated requirements by December 31, 2008; and
8. specify Station Battery maintenance and testing requirements by December 15, 2008.

In addition to the actions described in the Mitigation Plan to mitigate the alleged violation by ensuring that the Consumers Energy GRCP included all applicable Protection System devices, Consumers Energy also submitted an interim testing plan, providing for short term implementation of the revised GRCP. The interim plan was developed to complement Consumers Energy's CTs, VTs and DC control circuit maintenance and testing schedule established in the Mitigation Plan for inspection and testing of CTs and VTs as well as inspection of DC control circuits.⁸

⁶ See 18 C.F.R § 39.7(d)(7).

⁷ Although the Mitigation Plan submittal date states September 17, 2008, Consumers Energy originally submitted the Mitigation Plan on September 16, 2008 as an attachment to the Self-Report.

⁸ See P 18 of the Settlement Agreement for further information regarding the interim testing plan.

Consumers Energy certified on February 17, 2009 that the above Mitigation Plan requirements were completed on December 31, 2008. On April 9, 2009, as evidence of completion of its Mitigation Plan, Consumers Energy submitted the following:

- (1) *PRC-005-1, Transmission and Generation Protection Systems Maintenance and Testing, GRCP-25.5, Rev. 4.0*, dated December 5, 2008; and
- (2) a letter from Consumers Energy Company to ReliabilityFirst dated August 13, 2009.

ReliabilityFirst reviewed the evidence Consumers Energy submitted in support of its Certification of Completion to ensure that the evidence was legitimate and showed that Consumers Energy completed the steps committed to in the Mitigation Plan. ReliabilityFirst found that the revised program document did include relays, station batteries, CTs, VTs, and DC control circuits.

Accordingly, on September 1, 2009, after reviewing Consumers Energy submitted evidence, ReliabilityFirst verified that Consumers Energy's Mitigation Plan was completed on December 31, 2008 and that Consumers Energy was in compliance with PRC-005-1 R.1.

Statement Describing the Proposed Penalty, Sanction or Enforcement Action Imposed⁹

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,¹⁰ the NERC BOTCC reviewed the Settlement Agreement and supporting documentation on February 10, 2010. The NERC BOTCC approved the Settlement Agreement, including ReliabilityFirst's imposition of a financial penalty, assessing a penalty of fifteen-thousand dollar (\$15,000) against Consumers Energy and other actions to facilitate future compliance required under the terms and conditions of the Settlement Agreement. In approving the Settlement Agreement, the NERC BOTCC reviewed the applicable requirements of the Commission-approved Reliability Standards and the underlying facts and circumstances of the alleged violations at issue.

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

- (1) Consumers Energy self-reported the violation;
- (2) this violation constituted Consumers Energy's first occurrence of violation of the instant NERC Reliability Standard;
- (3) ReliabilityFirst reported Consumers Energy was cooperative throughout the enforcement process;
- (4) Consumers Energy has a developed compliance program;
- (5) ReliabilityFirst reported that it found no aggravating factors; and

⁹ See 18 C.F.R. § 39.7(d)(4).

¹⁰ *North American Electric Reliability Corporation*, "Guidance Order on Reliability Notices of Penalty," 124 FERC ¶ 61,015 (2008).

- (6) the alleged violations did not pose a serious or substantial risk to the bulk power system, as discussed above.

For the foregoing reasons, the NERC BOTCC approves the Settlement Agreement and believes that the proposed penalty of fifteen-thousand dollar (\$15,000) is appropriate for the violations and circumstances in question, and is consistent with NERC's goal to promote and ensure reliability of the BPS.

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 and material:

- a) Consumer Energy's Self Report dated September 16, 2008, included as Attachment a;
- b) Settlement Agreement by and between ReliabilityFirst and Consumers Energy executed October 2, 2009, included as Attachment b;
 - i) Consumers Energy's Mitigation Plan designated as MIT-08-1418 for PRC-005-1 R1 submitted on September 16, 2008,¹¹ included in the Settlement Agreement as Attachment A;
 - ii) ReliabilityFirst's Certification of Completion of the Mitigation Plan for PRC-005-1 R1 dated February 17, 2009; included in the Settlement Agreement as Attachment B; and
 - iii) ReliabilityFirst's Verification of Completion of the Mitigation Plan for PRC-005-1 R1 dated September 1, 2009, included in the Settlement Agreement as Attachment C.

A Form of Notice Suitable for Publication¹²

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

¹¹ Although the Mitigation Plan submittal date states September 17, 2008, Consumers Energy originally submitted the Mitigation Plan on September 16, 2008 as an attachment to the Self-Report.

¹² See 18 C.F.R. § 39.7(d)(6).

Notices and Communications

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

<p>Gerald W. Cauley* President and Chief Executive Officer David N. Cook* Vice President and General Counsel North American Electric Reliability Corporation 116-390 Village Boulevard Princeton, N.J. 08540-5721 (609) 452-8060 (609) 452-9550 – facsimile gerry.cauley@nerc.net david.cook@nerc.net</p> <p>Robert M. Neustifter* Principal Attorney Consumers Energy Company One Energy Plaza Jackson, MI 49201 (517)788-2974 (517)768-3644 - facsimile rmneustifter@cmsenergy.com</p> <p>Steven L. Gaarde* Director of Transmission and Regulatory Strategies Consumers Energy Company 1945 W Parnall Rd Jackson, MI 49201 (517) 788-1096 (517) 788-1093 - facsimile slgaarde@cmsenergy.com</p>	<p>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</p> <p>Timothy R. Gallagher* President & CEO ReliabilityFirst Corporation 320 Springside Drive, Suite 300 Akron, Ohio 44333 (330) 456-2488 (330) 456-5390 – facsimile tim.gallagher@rfirst.org</p> <p>Raymond J. Palmieri* Vice President and Director of Compliance ReliabilityFirst Corporation 320 Springside Drive, Suite 300 Akron, Ohio 44333 (330) 456-2488 (330) 456-5408 – facsimile ray.palmieri@rfirst.org</p> <p>Robert K. Wargo* Manager of Compliance Enforcement ReliabilityFirst Corporation 320 Springside Drive, Suite 300 Akron, Ohio 44333 (330) 456-2488 (330) 456-5408 – facsimile bob.wargo@rfirst.org</p>
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<p>*Persons to be included on the Commission's service list are indicated with an asterisk. NERC requests waiver of the Commission's rules and regulations to permit the inclusion of more than two people on the service list.</p>	<p>Megan E. Gambrel* Compliance Enforcement Specialist ReliabilityFirst Corporation 320 Springside Drive, Suite 300 Akron, Ohio 44333 (330) 456-2488 (330) 456-5408 – facsimile megan.gambrel@rfirst.org</p>
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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, N.J. 08540-5721
(609) 452-8060
(609) 452-9550 – facsimile
gerry.cauley@nerc.net
david.cook@nerc.net

/s/ Rebecca J. Michael
Rebecca J. Michael
Assistant General Counsel
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: Consumers Energy Company
ReliabilityFirst Corporation

Attachments

Attachment a

Consumer Energy's Self Report dated September 16, 2008

COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM
VIOLATION SELF-REPORTING FORM

This Violation Self-Reporting Form can be used for submittals via e-mail or fax for violations of the Reliability Standards identified by a self-assessment.

1. **Reliability Standard (XXX-###-# or XXX-###-RFC-##)** PRC-005-1
2. **Violation(s):** Check the appropriate box(s) to identify violation(s) of any of the applicable requirement(s) referenced in the standard.

For violations of requirements with Levels of Non-Compliance or Violation Severity Levels (VSL) specified in the standard:

- ☒ Entity is Level 1 Non-Compliance or has Lower VSL for the following: requirement(s): R1 for function(s): GO
- ☐ Entity is Level 2 Non-Compliance or has Moderate VSL for the following: requirement(s): _____ for function(s): _____
- ☐ Entity is Level 3 Non-Compliance or has High VSL for the following: requirement(s): _____ for function(s): _____
- ☐ Entity is Level 4 Non-Compliance or has Severe VSL for the following: requirement(s): _____ for function(s): _____

For violations of requirements with no Levels of Non-Compliance or Violation Severity Levels specified in the standard:

- ☐ Entity is in violation of requirement(s) not referenced in the Levels of Non-Compliance or Violation Severity Levels section of the standard:
- requirement(s): _____ for function(s): _____

3. **Description of the violation:** Consumers Energy - Generation Reliability Compliance Program (GRCP) does not include voltage and current sensing devices, station batteries, and DC control circuitry associated with protective relays.
4. **Additional information:** Consumers Energy has in place a protective relay testing and maintenance program. Although the Consumers Energy GRCP did not include station batteries, voltage and current sensing devices and DC control circuitry associated with protective relays, testing and maintenance on some of these items has been performed and documented.

Station Batteries

All generating plant station batteries have been tested and maintained, and testing records are available. However, not all plants have retained the records for three years as required by the Standard.

Voltage and Current Sensing Devices

Testing and maintenance of voltage and current sensing devices was not included in the GRCP and has not been performed. These devices are being identified and placed into three categories which are (a) those devices that are continuously monitored, (b) those devices that trip the unit if a failure occurs and (c) those devices that are not included in categories "a" or "b" and require testing.

DC Control Circuits

Testing and maintenance on DC control circuits associated with protective relays has been completed on six units which include:

D E Karn 2 - 4

J C Weadock 8

B C Cobb 4 - 5

Testing and maintenance on DC control circuits associated with protective relays has not been performed on the following units:

J H Campbell 1-3

Ludington 1-6

D E Karn 1

J C Weadock 7

J R Whiting 1-3

Zeeland Combined Cycle (2A, 2B, Steam Turbine)

Cobb 1-3

Combustion Turbines

Zeeland 1A-1B

Campbell A


Gaylord 1-5

Thetford 1-9

5. **Mitigation Plan attached:** ☒ Yes ☐ No

6. **Officer Verification:** I understand that this information is being provided as required by the ReliabilityFirst Compliance Monitoring and Enforcement Program. Any review of this violation will require all information certified on this form be supported by appropriate documentation.

Enter NERC Registry ID# NCR00740

Officer's Name: James R. Coddington  9-16-08

Officer's Title: Vice President Generation Operations

Officer's e-mail address: jrcoddington@cmsenergy.com Phone: 616-738-3400

Registered Company Name: Consumers Energy Company CDMS User ID: CPC

Primary Compliance Contact (PCC)/Alternate: Steven L. Gaarde/Jeanne M. Kurzynowski

Email: slgaarde@cmsenergy.com/jmkurzyn@cmsenergy.com Phone: 517-788-1096 Date: _____

**E-mail Submittals to: compliance@rfirst.org or Fax#: 330- 456-5408 – Attention Compliance Dept.
For any questions regarding compliance submittals, please e-mail: compliance@rfirst.org.**

Attachment b

**Settlement Agreement by and between
ReliabilityFirst and Consumers Energy executed
October 2, 2009**



In re)	
)	
CONSUMERS ENERGY COMPANY)	
)	
)	DOCKET NUMBER
)	
)	RFC200800077
NERC Registry ID # NCR00740)	
)	

**SETTLEMENT AGREEMENT
OF
RELIABILITYFIRST CORPORATION
AND
CONSUMERS ENERGY**

I. INTRODUCTION

1. ReliabilityFirst Corporation (“ReliabilityFirst”) and Consumers Energy Company (“Consumers Energy”) enter into this Settlement Agreement ("Agreement") to resolve all outstanding issues arising from a preliminary and non-public investigation resulting in ReliabilityFirst’s determination and findings, pursuant to the North American Electric Reliability Corporation (“NERC”) Rules of Procedure, of an alleged violation by Consumers Energy of the NERC Reliability Standard PRC-005-1, Requirement 1.

II. STIPULATION OF FACTS

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

A. BACKGROUND

3. Consumers Energy is one of the nation's largest combination utilities, providing

electric and/or natural gas service to almost 6.5 million of Michigan's 10 million residents, and serves customers in all 68 counties of Michigan's Lower Peninsula. Consumers Energy is the principal subsidiary of CMS Energy, a Michigan-based company that also owns and operates independent power businesses. Consumers Energy has a total system generating capacity of 6,536 MW.

4. ReliabilityFirst staff confirmed that Consumers Energy is registered on the NERC Compliance Registry as a Balancing Authority (BA), Distribution Provider (DP), Generator Owner (GO), Generator Operator (GOP), Load-Serving Entity (LSE), Purchasing-Selling Entity (PSE), and Resource Planner (RP) in the ReliabilityFirst region with the NERC Registry Identification Number of NCR00740 and is therefore subject to compliance with PRC-005-1, Requirement 1. Consumers Energy has certain Balancing Authority (BA) responsibilities under Joint Registration Organization (JRO ID# JRO00001).

B. ALLEGED VIOLATION OF PRC-005-1, REQUIREMENT 1 – RFC200800077

5. Requirement 1 of PRC-005-1, states in part,
“Each Transmission Owner and any Distribution Provider that owns a transmission Protection System and each Generator Owner that owns a generation Protection System shall have a Protection System maintenance and testing program for Protection Systems that affect the reliability of the BES. The program shall include:

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

R1.2. Summary of maintenance and testing procedures.”

6. On September 16, 2008, Consumers Energy submitted to ReliabilityFirst a Compliance Monitoring and Enforcement Program Violation Self-Reporting Form in which Consumers Energy identified Non-Compliance to Requirement 1 of Reliability Standard PRC-005-1. Specifically, in the Self-Report, Consumers Energy stated that

“Consumers Energy – Generation Reliability Compliance Program (GRCP) does not include voltage and current sensing devices, station batteries, and DC control circuitry associated with protective relays. Consumers Energy has in place a protective relay testing and maintenance program. Although the Consumers Energy GRCP did not include station batteries, voltage and current sensing devices and DC control circuitry associated with protective relays, testing and maintenance on some of these items has been performed and documented.

“Station Batteries - All generating plant station batteries have been tested and maintained, and testing records are available. However, not all plants have retained the records for three years as required by the Standard.

“Voltage and Current Sensing Devices - Testing and maintenance of voltage and

current sensing devices was not included in the GRCP and has not been performed. These devices are being identified and placed into three categories which are (a) those devices that are continuously monitored (b) those devices that trip the unit if a failure occurs and (c) those devices that are not included in categories “a” or “b” and require testing.

“DC Control Circuits - Testing and maintenance on DC control circuits associated with protective relays has been completed on [five] units which include: DE Karn 2 [and] 4, JC Weadock 8, BC Cobb 4-5.”

In an April 9, 2009 response to a ReliabilityFirst information request, Consumers Energy stated that there are [38] units whose DC Control Circuit tests had not been tested prior to the self report: JH Campbell 1-3, Ludington 1-6, DE Karn 1, JC Weadock 7, JR Whiting 1-3, BC Cobb 1-3, Zeeland 1A, 1B, 2A, 2B, Zeeland Steam Turbine, Campbell A, Gaylord 1-5, Thetford 1-9, and DE Karn 3.

Consumers Energy later clarified that its GRCP procedures require retention of test records for three years. Plant Compliance Coordinators and Plant Managers have recently self-certified that they are in compliance with the GRCP procedure that addresses PRC-005-1. Historically, station batteries have been tested and maintained as a good business practice. Generally, records are retained for three years. However, prior to the self-report, some of the Consumers Energy plants retained records for less than three years.

7. Consumers Energy provided additional information regarding the alleged violation in its April 9, 2009 response to a ReliabilityFirst information request. Consumers Energy provided a copy of the GRCP in effect at the time of the alleged violation, in which Consumers Energy included a summary table which indicated that 697 relays and 3 communication systems were included in the GRCP both before and after the Self-Report. In addition, Consumers Energy indicated that 649 voltage transformers (“vts”) and current transformers (“cts”), 27 banks of batteries, and 43 DC Control Circuits were not included in the GRCP before the Self-Report, but were added to the GRCP after the Self-Report. Consumers Energy indicated that although batteries were not included in the GRCP prior to the Self-Report, testing, maintenance and testing was performed on the batteries prior to the Self-Report. Consumers Energy indicated that no abnormal equipment problems have been observed for the vts and cts, batteries, or DC Control Circuits that were not included in the GRCP before the Self-Report.
8. ReliabilityFirst alleges that Consumers Energy failed to include maintenance and testing intervals and their basis and a summary of maintenance and testing procedures for station batteries, voltage and current sensing devices and DC control circuitry associated with protective relays within the Consumers Energy Protection System maintenance and testing program.

III. PARTIES' SEPARATE REPRESENTATIONS

STATEMENT OF RELIABILITYFIRST AND SUMMARY OF FINDINGS

9. ReliabilityFirst considers this Agreement as the resolution of all issues with regard to the above captioned docket number and to bind Consumers Energy in the commitment to perform actions hereafter enumerated and listed as conditions for this Agreement.
10. PRC-005-1, Requirement 1 has a Violation Risk Factor (VRF) of High, as evidenced by the NERC Violation Risk Factor Matrix.
11. ReliabilityFirst found noteworthy and commendable certain aspects of Consumers Energy's compliance program including that the compliance program at Consumers Energy has the support of senior management. Senior management supports its internal compliance program through quarterly review of regulatory compliance issues, including NERC, at the Consumers Compliance Review Committee meetings and by ensuring completion of compliance training programs. The company maintains a Statement of FERC Compliance Policy which makes explicit reference to the NERC Standards, and the NERC compliance program has assigned roles and responsibilities to appropriate employees at each business unit. Accountable Authorities have been identified and are responsible for ensuring compliance with the Standards. The Accountable Authorities report to senior management, including the CCO, and the CCO reports semiannually to the Audit Committee and annually to the full Board of Directors on the status of compliance. Participation and support is available from the CCO's staff, the Legal Department and other areas. In addition, the Consumers Energy Compliance Department has a continuous communication program that routinely distributes ethics, code of conduct and policy communication on compliance topics to all employees and contractors, consultants and agents. A fundamental element of the Consumers Energy compliance program is employee training, which features online courses for salaried employees and classroom-style courses for operations and union employees. The internal compliance program requires self-assessments to be conducted by Compliance Assurance Managers and Accountable Authorities. In addition, Consumers Energy has recently developed an Issue Resolution Form and FERC Compliance Log. As issues are discovered, the compliance department completes an Issue Resolution Form, which requires identification of the issue, a description of how the issue was discovered, how many times the issue occurred, what steps are needed to correct the issue, and what steps are being taken to ensure that the issue is not repeated.
12. ReliabilityFirst agrees that this agreement is in the best interest of the parties and in the best interest of bulk power system reliability.

STATEMENT OF CONSUMERS ENERGY

13. Consumers Energy neither admits nor denies that the facts set forth and agreed to by the parties for purposes of this Agreement constitute violations of PRC-005-1, Requirement 1.
14. Consumers Energy has agreed to enter into this Settlement Agreement with ReliabilityFirst 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. Consumers Energy agrees that this agreement is in the best interest of the parties and in the best interest of maintaining a reliable electric infrastructure.

IV. MITIGATING ACTIONS, REMEDIES AND SANCTIONS

A. Mitigating Actions for PRC-005-1, Requirement 1 – RFC200800077

15. On September 17, 2008, Consumers Energy submitted to ReliabilityFirst a Mitigation Plan to address the Alleged Violation set forth in this Agreement. On February 18, 2009, ReliabilityFirst accepted the Mitigation Plan (Mitigation Plan Tracking # MIT-08-1418, *see* Attachment A), and submitted the accepted Mitigation Plan to NERC. NERC approved the Mitigation Plan on February 25, 2009 and submitted the Mitigation Plan to FERC as confidential, non-public information on February 27, 2009. Consumers Energy submitted to ReliabilityFirst a certification of completion of the Mitigation Plan, dated February 17, 2009, which stated that the Mitigation Plan was completed by December 31, 2008 (entitled “Certification of Mitigation Plan Completion”, *see* Attachment B), and also submitted evidence of completion of the Mitigation Plan on April 9, 2009.
16. In the Mitigation Plan, Consumers Energy outlines actions identified to be taken in order to mitigate the violation, as well as the dates by which the actions were to be taken:
 - a. Specifically identify voltage and current sensing devices depicted on engineering drawings included in the scope of the GRCP. (Completed by November 1, 2008)
 - b. Incorporate voltage and current sensing devices maintenance and testing into the GRCP requirements. (Completed by December 15, 2008)

c. Specifically identify associated Relay DC Control Circuits to be included in the scope of GRCP. (Completed by December 31, 2008)

d. Develop DC Control Circuit test procedures for facilities requiring testing. (Completed by December 31, 2008)

e. Incorporate DC Control Circuit testing into the GRCP requirements. (Completed by December 15, 2008)

f. Specify Station Battery maintenance and testing requirements. (Completed by December 15, 2008)

g. GRCP 25.5 ("Transmission and Generation Protection System Maintenance and Testing") procedure implemented. (Completed by December 31, 2008)

17. In addition to the Mitigation Plan, which mitigates the PRC-005-1, Requirement 1 alleged violation by ensuring that the Consumers Energy maintenance and testing program (GRCP) includes all applicable Protection System devices, Consumers Energy also submitted an interim testing plan, providing for short term implementation of the revised GRCP, to ReliabilityFirst. Consumers Energy stated, "An interim plan has been developed for inspection and testing of current transformers (ct) and voltage transformers (vt), as well as inspection of direct current (DC) control circuits. This interim plan has been developed to compliment Consumers Energy's ct, vt and DC control circuit maintenance and testing schedule established in the Mitigation Plan...The completion schedules show completion dates based on the assumption no forced or planned maintenance outages occur. Interim maintenance, testing and inspection may be performed prior to the date scheduled, depending on the length of a forced or planned maintenance outage that may occur. Also, there may be instances where the schedule may change because of system operating conditions at the time or the status of other generating units. If the schedules are changed, Consumers Energy will promptly notify ReliabilityFirst."

18. Consumers Energy provided ReliabilityFirst with the following information regarding the interim testing plan, in addition to extensive charts detailing the date of interim testing and date of final testing for each applicable device:

"ct and vt Interim Inspection and Testing

The interim plan consists of inspection and testing of cts and vts identified in the Mitigation Plan as those cts and vts that are in the "requires testing" category and are not scheduled in the Mitigation Plan to be completed in 2009. The following actions will be taken as part of the interim plan:

1. A visual inspection will be made and a procedure including a checklist will be used for documentation. Items on the checklist will include (a) discoloration, (b) bare spots on wires, (c) presence of foreign material, (d) presence of moisture, (e) presence of corrosion.

2. Thermal imaging will be used and documented on the checklist.
3. Current testing by clamp-on devices will be performed when appropriate and documented on the checklist.

The checklists will be reviewed to determine if additional actions are required...As discussed in the Mitigation Plan, testing and maintenance of cts and vts is not required on cts and vts that are continuously monitored or trip the unit upon failure. Therefore, interim dates for inspection and testing are only shown for cts and vts that require inspection and testing. The Plant Business Manager will determine within 14 days of the inspection whether a maintenance outage is required for maintenance or replacement of a suspect ct or vt.

To account for reliability and safety concerns, inspection and testing of cts and vts enclosed in restricted access cabinets will be conducted during a forced or maintenance outage, and the inspection and testing will occur during the next planned outage which is shown in Attachment 1.

DC Control Circuits Inspection

The interim plan also consists of inspection of DC control circuits which are not scheduled in the Mitigation Plan to be completed in 2009. The following actions will be taken as part of the interim plan:

- (1) A visual inspection will be made and a procedure including a checklist will be used for documentation. Items on the checklist will include (a) discoloration, (b) bare spots on wires, (c) presence of foreign material, (d) presence of moisture, (e) presence of corrosion, (f) check for beaker position lights, (g) verify [S]tates terminal block links are in proper position, (h) check power lights on digital relays

The checklists will be reviewed to determine if additional actions are required...The Plant Business Manager will determine within 14 days of the inspection whether a maintenance outage is required for maintenance of a suspect DC control circuit. To account for reliability and safety concerns, inspections of DC control circuits enclosed in restricted access cabinets, conduit and cable trays will be inspected during a forced or maintenance outage if feasible. In cases where the unit does not have a forced or maintenance outage in 2009 or it is not feasible to complete the inspection during the forced or maintenance outage, the inspection will occur during the next planned outage...”

19. In a letter from Consumers Energy to ReliabilityFirst dated August 13, 2009, Consumers Energy stated that it has revised its PRC-005-I Interim Plan Current Transformer (ct) and Voltage Transformer (vt) testing plan, as well as its DC Control Circuit testing plan. Consumers Energy stated, “Specifically, the scheduled interim ct and vt testing for Campbell 2, Karn 2, Whiting 1 and

Whiting 3 has now been set at June 30, 2010. Further, scheduled interim DC control circuit testing for Whiting 1 has also been set at June 30, 2010. With this schedule adjustment all interim testing will be completed by June 30, 2010.”

20. ReliabilityFirst reviewed the evidence Consumers Energy submitted in support of its certification of completion of the Mitigation Plan. ReliabilityFirst performed an audit-like review to verify that all actions specified in the Mitigation Plan were successfully completed. On September 1, 2009, ReliabilityFirst verified that the Mitigation Plan was completed in accordance with its terms (*see* Attachment C, “Summary and Review of Evidence of Mitigation Plan Completion”).
21. Consumers Energy shall pay a monetary penalty of \$15,000 to ReliabilityFirst. ReliabilityFirst shall present an invoice to Consumers Energy within twenty days after the Agreement is approved (as submitted or as modified in a manner acceptable to the parties) either by the Federal Energy Regulatory Commission or by operation of law, and ReliabilityFirst shall notify the North American Electric Reliability Corporation if the payment is not received.
22. In order to facilitate ReliabilityFirst’s need to communicate the status and provide accountability to the ERO (NERC), Consumers Energy will provide status updates on implementation of the Mitigation Plan and the interim testing plan at a minimum quarterly or, if requested by ReliabilityFirst, more frequently. Consumers Energy will submit these status updates to ReliabilityFirst in accordance with the confidentiality provisions of Section 1500 of the NERC Rules of Procedure.
23. It is understood that ReliabilityFirst staff shall audit 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. ReliabilityFirst shall reasonably coordinate audits and information requests with Consumers Energy related to this Settlement Agreement.
24. Based on the above actions taken or to be taken by Consumers Energy and Consumers Energy’s cooperation and agreement to expeditiously reconcile this issue via settlement, Consumers Energy shall pay \$15,000 to ReliabilityFirst as stated in this Settlement Agreement. However, if Consumers Energy fails to complete the actions described above, ReliabilityFirst reserves the right to assess and collect a monetary penalty, to impose a sanction or otherwise to impose enforcement actions. Consumers Energy shall retain all rights to defend against such additional enforcement actions in accordance with NERC Rules of Procedure.

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

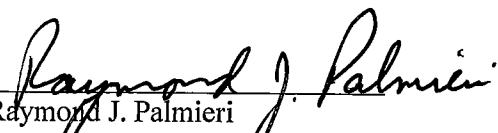
If Consumers Energy does not make the monetary penalty payment above at the times agreed by the parties, interest payable to ReliabilityFirst will begin to accrue pursuant to the Commission's regulations at 18 C.F.R. § 35.19a(a)(2)(iii) from the date that payment is due, in addition to the penalty specified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

V. ADDITIONAL TERMS

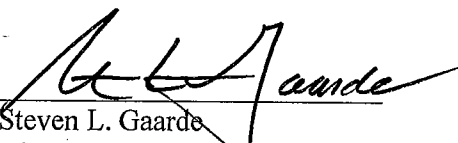
26. The signatories to the Agreement agree that they enter into the Agreement voluntarily and that, other than the recitations set forth herein, no tender, offer or promise of any kind by any member, employee, officer, director, agent or representative of ReliabilityFirst or Consumers Energy has been made to induce the signatories or any other party to enter into the Agreement.
27. ReliabilityFirst 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 ReliabilityFirst and Consumers Energy of changes to the settlement that would result in approval. If NERC rejects the settlement, NERC will provide specific written reasons for such rejection and ReliabilityFirst will attempt to negotiate a revised settlement agreement with Consumers Energy including any changes to the settlement specified by NERC. If a settlement cannot be reached, the enforcement process shall continue to conclusion. If NERC approves the settlement, NERC will (i) report the approved settlement to the Commission for the Commission's review and approval by order or operation of law and (ii) publicly post the alleged violation and the terms provided for in the settlement.
28. 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.
29. Consumers Energy agrees that this Agreement, when approved by NERC and the Commission, shall represent a final settlement of all matters set forth herein and Consumers Energy waives its right to further hearings and appeal, unless and only to the extent that Consumers Energy contends that any NERC or Commission action on the Agreement contains one or more material modifications to the Agreement.

30. ReliabilityFirst reserves all rights to initiate enforcement, penalty or sanction actions against Consumers Energy in accordance with the NERC Rules of Procedure in the event that Consumers Energy fails to comply with the mitigation plan and compliance program agreed to in this Agreement. In the event that Consumers Energy fails to comply with any of the stipulations, remedies, sanctions or additional terms, as set forth in this Agreement, ReliabilityFirst will initiate enforcement, penalty, or sanction actions against Consumers Energy as allowed by the NERC Rules of Procedure, up to the maximum statutorily allowed penalty. Consumers Energy shall retain all rights to defend against such enforcement actions, also according to the NERC Rules of Procedure.
31. Consumer Energy consents to the use of ReliabilityFirst's determinations, findings, and conclusions set forth in this Agreement for the purpose of assessing the factors, including the factor of determining the company's history of violations, in accordance with the NERC Sanction Guidelines and applicable Commission orders and policy statements. Such use may be solely in any enforcement action or compliance proceeding undertaken by NERC and/or ReliabilityFirst; provided, however that Consumers Energy does not consent to the use of the specific acts set forth in this Agreement as the sole basis for any other action or proceeding brought by NERC and/or ReliabilityFirst, nor does Consumers Energy consent to the use of this Agreement by any other party in any other action or proceeding.
32. 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.
33. 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.
34. The Agreement may be signed in counterparts.
35. This Agreement is executed in duplicate, each of which so executed shall be deemed to be an original.

Agreed to and accepted:

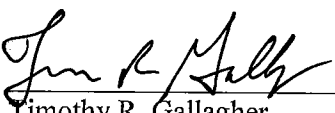

Raymond J. Palmieri
Vice President and Director of Compliance
ReliabilityFirst Corporation

10/2/09
Date


Steven L. Gaarde
Director of Transmission and Regulatory Strategies
Consumers Energy Company

10/1/09
Date

Approved by:


Timothy R. Gallagher
President & CEO
ReliabilityFirst Corporation

10/2/09
Date

[Include reporting forms as applicable]

MIT-08-1418



RFC200800077

Mitigation Plan Submittal Form

Date this Mitigation Plan is being submitted: September 17, 2008

Section A: Compliance Notices & Mitigation Plan Requirements

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

Section B: Registered Entity Information

- B.1 Identify your organization.

Company Name: Consumers Energy

Company Address: One Energy Plaza
Jackson, MI 49201

NERC Compliance Registry ID: NCR00740

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

Name: Charles A. Bunnell

Title: Director of Plant Operations

Email: cbunnell@cmsenergy.com

Phone: 517-788-7211



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

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

NERC Violation ID #	Reliability Standard	Requirement Number	Violation Risk Factor	Alleged or Confirmed Violation Date ^(*)	Method of Detection (e.g., Audit, Self-report, Investigation)
RFC200800077	PRC-005-1	R1	High	7/09/08	Self-Report

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

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

Consumers Energy Generation has in place a protective relay and maintenance program which was found to be compliant in a July 21, 2004 NERC audit. In reviewing our compliance program for PRC-005-1 we discovered the NERC Glossary of Terms definition of "Protection Systems", had been amended in 2006 to include voltage and current sensing devices, station batteries, DC control circuitry and communication systems associated with protective relays in addition to protective relays. The definition is not included in the Standard itself and the expanded definition was undetected by Consumers Energy Generation at the time PRC-005-1 was approved.

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

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



Although the Consumers Energy Generation Reliability Compliance Program (GRCP) did not include station batteries, voltage and current sensing devices and DC control circuitry associated with protective relays, testing and maintenance on some of these items has been performed and documented.

Station Batteries

All generating plant station batteries have been tested and maintained, and testing records are available. However, not all plants have retained the records for three years as required by the Standard.

Voltage and Current Sensing Devices

Testing and maintenance of voltage and current sensing devices was not included in the GRCP and has not been performed. These devices are being identified and placed into three categories which are (a) those devices that are continuously monitored, (b) those devices that trip the unit if a failure occurs and (c) those devices that are not included in categories "a" or "b" and require testing. An example of the devices and their associated categories are shown in Attachment 1.

DC Control Circuits

Testing and maintenance on DC control circuits associated with protective relays has been completed on six units which include:

D E Karn 2 - 4
J C Weadock 8
B C Cobb 4 - 5

Testing and maintenance on DC control circuits associated with protective relays has not been performed on the following units:

J H Campbell 1-3
Ludington 1-6
D E Karn 1
J C Weadock 7
J R Whiting 1-3
Zeeland Combined Cycle (2A, 2B, Steam Turbine)
Cobb 1-3
Combustion Turbines
 Zeeland 1A-1B
 Campbell A
 Gaylord 1-5
 Thetford 1-9



Additional Relevant Information

Consumers Energy has in place a NERC Compliance Assurance Process Structure to ensure the Company meets the requirements of the NERC Reliability Standards. The attached organization chart (Attachment 2) describes this structure and shows direct reporting relationships between those individuals responsible for compliance and Senior Executives including the COO.

The Compliance Assurance Managers are responsible for monitoring NERC Reliability Standard announcements. They also attend ReliabilityFirst Compliance conferences associated with the NERC Reliability Standards and have participated as team members on NERC Reliability Compliance Readiness Evaluations.

The GRCP is continuously kept current as new or revised Standards are issued. Procedures are developed, reviewed and distributed for approvals prior to implementation. The Program is distributed as a "controlled document" to all Designated Standard Owners (Plant Compliance Coordinators) and Advisory Group Members. A listing of the Compliance Coordinators and Advisory Group membership is included as Attachment 3.

Internal self-evaluation of the GRCP is periodically conducted. The most recent self-evaluation was completed December 2007. Compliance Assurance Managers from the LDC and Energy Supply participated in the self-evaluations as well as the Executive Management Oversight Committee LDC representative.

Compliance status is reported to the Executive Management Oversight Committee (EMOC) on a regular basis. The most recent status report was made May 19, 2008 and is provided in Attachment 4. In addition, the Chairman of the EMOC periodically provides verbal compliance status to the Consumers Compliance Review Committee (CCRC).

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.



Consumers Energy has developed a Mitigation Plan to address the deficiencies in the existing Program. Contributing to this Mitigation Plan are representatives from each Generating Plant, System Protection, Electric Field Lab, Equipment Services and Plant Operations. The Mitigation Plan includes the addition of maintenance and testing for station batteries, voltage and current sensing devices, and DC control circuitry associated with protective relays into the existing Program. The Mitigation Plan is provided in Attachment 5.

Mitigation Plan Timeline and Milestones

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

The Mitigation Plan will be fully implemented by December 31, 2008.

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

Key Milestone Activity	Proposed/Actual Completion Date* (shall not be more than 3 months apart)
Specifically Identify Voltage and Current Sensing Devices Depicted on Engineering Drawings Included in the Scope of the GRCP	November 1, 2008
Incorporate Voltage and Current Sensing Devices Maintenance and Testing into the GRCP Requirements	December 15, 2008
Specifically Identify Associated Relay DC Control Circuits to be included in the scope of GRCP.	December 31, 2008
Develop DC Control Circuit Test Procedures for Facilities Requiring Testing (See Mitigation Plan)	December 31, 2008
Incorporate DC Control Circuit Testing into the GRCP Requirements	December 15, 2008
GRCP-25.5 ("Transmission and Generation	



Protection System Maintenance and Testing”) Procedure Implemented.	December 31, 2008
Specify Station Battery Maintenance and Testing Requirements	December 15, 2008

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

Section E: Interim and Future Reliability Risk

Abatement of Interim BPS Reliability Risk

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

The risk to the BPS during the implementation of the Mitigation Plan is extremely small.

All generating plant station batteries have been tested and maintained, and testing records are available. However, not all plants have retained the records for three years as required by the Standard. Since the maintenance and testing has been performed, the impact to the BPS is negligible.

Voltage and Current sensing devices associated with protective relays are being identified as being in one of three categories. The category requiring testing is a small subset of the total devices identified. The reliability of these devices is extremely high and there are minimal impacts on the reliability of the BPS.

Testing and maintenance of DC control circuits has been completed on six units. The testing and maintenance on the remaining units listed in Section C.3 will be completed during planned maintenance outages. The reliability of these circuits is extremely high and the impact on the reliability of the BPS is minimal.



Prevention of Future BPS Reliability Risk

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

All identified components within the "Protection System" definition will be tested and maintained as required by Consumers Energy Generation Reliability Compliance Program Procedures which will follow the requirements identified in the Mitigation Plan.

We have reviewed the other NERC Reliability Standards applicable to Generator Owners and Generator Operators and the NERC Glossary to ensure Consumers Energy Generation Reliability Compliance Program complies with all requirements and have found no further deficiencies.

**Authorization**

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

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

Authorized Individual Signature

A handwritten signature in black ink that reads "James R. Coddington".

Name (Print):

James R. Coddington

Title:

Vice President Generation Operations

Date:

February 17, 2009

Section F: Regional Entity Contact

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



Attachment A – Compliance Notices & Mitigation Plan Requirements

- I. Section 6.2 of the CMEP¹ sets forth the information that must be included in a Mitigation Plan. The Mitigation Plan must include:
 - (1) The Registered Entity's point of contact for the Mitigation Plan, who shall be a person (i) responsible for filing the Mitigation Plan, (ii) technically knowledgeable regarding the Mitigation Plan, and (iii) authorized and competent to respond to questions regarding the status of the Mitigation Plan.
 - (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) Key implementation milestones no more than three (3) months apart for Mitigation Plans with expected completion dates more than three (3) months from the date of submission. Additional violations could be determined for not completing work associated with accepted milestones.
 - (9) Any other information deemed necessary or appropriate.
 - (10) The Mitigation Plan shall be signed by an officer, employee, attorney or other authorized representative of the Registered Entity, which if applicable, shall be the person that signed the Self-Certification or Self Reporting submittals.
- II. This submittal form must be used to provide a required Mitigation Plan for review and acceptance by ReliabilityFirst and approval by NERC.
- III. This Mitigation Plan is submitted to ReliabilityFirst 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

¹ "Compliance Monitoring and Enforcement Program" of the ReliabilityFirst Corporation;" a copy of the current version approved by the Federal Energy Regulatory Commission is posted on the ReliabilityFirst website.



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 ReliabilityFirst 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. ReliabilityFirst 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.



DOCUMENT CONTROL

Title: Mitigation Plan Submittal Form
Issue: Version 1.0
Date: 2 January 2008
Distribution: Public
Filename: ReliabilityFirst Mitigation Plan Submittal Form - Ver 1.DOC
Control: Reissue as complete document only

DOCUMENT APPROVAL

Prepared By	Approved By	Approval Signature	Date
Robert K. Wargo Senior Consultant Compliance	Raymond J. Palmieri Vice President and Director Compliance	<i>Raymond J. Palmieri</i>	1/2/08

DOCUMENT CHANGE/REVISION HISTORY

Version	Prepared By	Summary of Changes	Date
1.0	Robert K. Wargo	Original Issue – Replaces “Proposed Mitigation Plan” Form	1/2/08

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""""""Attachment 1 vj tqwi j '6'j c xg'dggp"

""t go q xgf 'ht qo 'vj ku'hkpi

PRC-005-1 Mitigation Plan Submittal Form Attachment 5

1. For relays identified to be included in the scope of PRC-005-1, identify associated Voltage and Current Sensing Devices. Proposed Completion – November 1, 2008

The list of Voltage and Current Sensing Devices associated with the relays identified above is being compiled by System Planning and Protection – Plant Relaying Section and will be confirmed by the Electric Field Lab. Initial testing of the Voltage and Current Sensing Devices will coincide with the associated relay testing commencing in 2009.

2. For relays identified to be included in the scope of PRC-005-1, identify associated DC control circuits. Proposed Completion – December 31, 2008
3. Develop DC control circuit testing procedures. Proposed Completion – December 31, 2008

Procedures are currently being developed by Equipment Services Department personnel for testing of DC control circuits for the relays identified to be included within the scope of PRC-005-1. The procedures outline the control circuits requiring testing.

4. Specify battery maintenance and testing requirements.
Proposed Completion – December 15, 2008

The Generation Compliance Program Procedure for PRC-005-1 will be revised to specify battery testing documentation retention requirements of 3 years.

5. Revise and implement GRCP 25.5 for PRC-005-1 with updated requirements. Proposed Completion – December 31, 2008

The GRCP (GRCP 25.5) Procedure for PRC-005-1 will be revised to include maintenance and testing requirements of station batteries, Voltage and Current Sensing Devices, and DC control circuits associated with the generator protective relays.

Attachment B

Certification of Mitigation Plan Completion

Submitted February 17, 2009



Certification of Mitigation Plan Completion

Submittal of a Certification of Mitigation Plan Completion shall include data or information sufficient for ReliabilityFirst Corporation to verify completion of the Mitigation Plan. ReliabilityFirst Corporation may request additional data or information and conduct follow-up assessments, on-site or other Spot Checking, or Compliance Audits as it deems necessary to verify that all required actions in the Mitigation Plan have been completed and the Registered Entity is in compliance with the subject Reliability Standard. (CMEP Section 6.6)

Registered Entity Name: Consumers Energy

NERC Registry ID:NCR00740

Date of Submittal of Certification:2/17/2009

NERC Violation ID No(s):RFC20080007

Reliability Standard and the Requirement(s) of which a violation was mitigated:PRC-005-1 R.1

Date Mitigation Plan was scheduled to be completed per accepted Mitigation Plan:12/31/08

Date Mitigation Plan was actually completed:12/31/08

Additional Comments (or List of Documents Attached):Mitigation Plan Milestone Completion Matrix

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

Name:James R. Coddington

Title:Vice President Generation Operations

Email:jrcoddington@cmsenergy.com

Phone:616-738-3400

Authorized Signature

A handwritten signature in blue ink that reads "James R. Coddington". The signature is written over a horizontal line.

Date2/18/2009

2-17-2009
JPC

Consumers Energy Mitigation Plan Completion Matrix
NERC Violation ID: RFC20080007

Key Milestone Activity	Proposed Completion Date	Actual Completion Date
Specifically Identify Voltage and Current Sensing Devices Depicted on Engineering Drawings Included in the Scope of the GRCP	November 1, 2008	October 27, 2008
Incorporate Voltage and Current Sensing Devices Maintenance and Testing into the GRCP Requirements	December 15, 2008	November 14, 2008
Specifically Identify Associated Relay DC Control Circuits to be included in the scope of GRCP.	December 31, 2008	December 18, 2008
Develop DC Control Circuit Test Procedures for Facilities Requiring Testing	December 31, 2008	December 18, 2008
Incorporate DC Control Circuit Testing into the GRCP Requirements	December 15, 2008	November 14, 2008
GRCP-25.5 ("Transmission and Generation Protection System Maintenance and Testing") Procedure Implemented.	December 31, 2008	December 31, 2008
Specify Station Battery Maintenance and Testing Requirements	December 15, 2008	November 14, 2008

Attachment C

Review and Summary of Evidence of Mitigation Plan Completion

Dated September 1, 2009

September 1, 2009

Summary and Review of Evidence of Mitigation Plan Completion

NERC Violation ID #:	RFC200800077
NERC Plan ID:	MIT-08-1418
Registered Entity;	Consumers Energy Company
NERC Registry ID:	NCR00740
Standard:	PRC-005-1
Requirement:	R1
Status:	Complete

Consumers Energy Company submitted a self-report of noncompliance with NERC Reliability Standard PRC-005-1, Requirement 1 on September 16, 2008. Consumers Energy Company submitted a Proposed Mitigation Plan to ReliabilityFirst on September 17, 2008, whereby stating Consumers Energy Company would complete all mitigating actions on or about December 31, 2008. This Mitigation Plan, designated MIT-08-1418, was accepted by ReliabilityFirst on February 18, 2009 and approved by NERC on February 25, 2009.

Review Process:

On February 17, 2009, Consumers Energy Company certified that Mitigation Plan for PRC-005-1, Requirement 1 was completed as of December 31, 2008. ReliabilityFirst requested and received evidence of completion for actions taken by Consumers Energy Company as specified in the Mitigation Plan. ReliabilityFirst performed an in-depth review of the information provided to verify that all actions specified in the Mitigation Plan were successfully completed.

PRC-005-1 Requirement 1 states:

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

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

***R1.2.** Summary of maintenance and testing procedures.*

Evidence Submitted (Specific to R1):

PRC-005-1, Transmission and Generation Protection System Maintenance and Testing, GRCP-25.5, Rev. 4.0, 12/05/08.

Letter from Consumers Energy Company to ReliabilityFirst Corporation dated August 13, 2009.

Summary and Review of Mitigation Plan Completion
Consumers Energy Company
September 1, 2009
Page 2 of 3

The PRC-005-1, Transmission and Generation Protection System Maintenance and Testing, GRCP-25.5, Rev. 4.0 dated 12/05/2008 is the revised procedure which includes maintenance and testing requirements for station batteries, Voltage and Current Sensing Devices, and DC control circuits associated with the generator protective relays.

The revised procedure states that the procedure “considers Generator Protection Systems which include only those devices that sense electrical parameters such as voltage, current, and frequency and act to trip the generator either directly or via generator lockout or auxiliary tripping relays. These components are defined as relays, station batteries, CTs, VTs, and DC control circuits in the procedure.

The procedure calls for the scheduled maintenance and testing to be completed in the calendar year determined by the maintenance and testing interval. For example, if the maintenance and testing interval is specified as one year, and maintenance and testing is completed in the first quarter of the first calendar year, then maintenance and testing must be completed again by the end of the fourth quarter of the second year. If the scheduled maintenance and testing is not completed within the calendar year determined by the interval, a grace period of one calendar year is allowed.

The interval for the maintenance and testing of the station batteries is monthly and quarterly and is based on the NFPA 70B, “Recommended Practice for Electrical Equipment Maintenance” – 2006, Section 9.9.4.7.

The interval for the maintenance and testing of the DC Control Circuits is ten (10) years and is based on failure history.

Section 3c of the Maintenance and Testing program states the relay testing frequency is to be provided by the Advisory Group Member from the Electric Field Lab. Attached to the letter from Consumers Energy Company to ReliabilityFirst Corporation was a copy of the document identifying the frequency. This attachment consists of several pages from the System Maintenance and Construction Services Relay Maintenance Program.

The maintenance and testing interval for the CTs and VTs is based on historical performance and guidance provided in NFPA 70B. To align with the maintenance and testing of protective relays, the CT and VT maintenance interval for the program is identified as every other relay test cycle.

Summary and Review of Mitigation Plan Completion
Consumers Energy Company
September 1, 2009
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Review Results:

ReliabilityFirst Corporation reviewed the evidence the Consumers Energy Company submitted in support of its Certification of Completion. On September 1, 2009, ReliabilityFirst verified that the Mitigation Plan was completed in accordance with its terms and has therefore deemed Consumers Energy Company compliant to the aforementioned NERC Reliability Standard.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Robert K. Wargo", with a stylized flourish at the end.

Robert K. Wargo
Manager of Compliance Enforcement
ReliabilityFirst Corporation

Attachment c

Notice of Filing

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Consumers Energy Company

Docket No. NP10-____-000

NOTICE OF FILING
March 31, 2010

Take notice that on March 31, 2010, the North American Electric Reliability Corporation (NERC) filed a Notice of Penalty regarding Consumers Energy Company in the SERC Reliability Corporation region.

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

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

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

Comment Date: [BLANK]

Kimberly D. Bose,
Secretary