



NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

March 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 Mirant Delta, LLC.
FERC Docket No. NP10-_-000**

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Notice of Penalty¹ regarding Mirant Delta, LLC (MIDE),² NERC Registry ID# NCR05511,³ in accordance with the Federal Energy Regulatory Commission's (Commission or FERC) rules, regulations and orders, as well as NERC Rules of Procedure including Appendix 4C (NERC Compliance Monitoring and Enforcement Program (CMEP)).⁴

During an off-site Compliance Audit conducted on April 23, 2009 (Audit), Western Electricity Coordinating Council (WECC) identified a possible violation of Reliability Standards PRC-005-1 Requirement (R) 2.1 for MIDE's failure to maintain and test twenty relays in its Protections System for MIDE's Pittsburgh Unit 7 generating unit. This Notice of Penalty is being filed with the Commission because, based on information from WECC, WECC and MIDE have entered into a Settlement Agreement to resolve all outstanding issues arising from a preliminary and non-public assessment resulting in WECC's determination and findings of the enforceable alleged violation of PRC-005-1 R2.1. According to the Settlement Agreement, this is a Confirmed Violation and MIDE has agreed to the proposed penalty of eleven thousand five hundred dollars (\$11,500) to be assessed to MIDE, 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 (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).

² On November 13, 2009, NERC submitted a Notice of Penalty which addressed an alleged violation for Mirant Delta, LLC. On December 11, 2009, FERC issued an order stating it would not engage in further review of the alleged violation addressed in the November 13, 2009 Notice of Penalty.

³ Western Electricity Coordinating Council (WECC) confirmed that MIDE was included on the NERC Compliance Registry as a Generator Owner and Generator Operator on August 10, 2007. As a Generator Owner, MIDE is subject to the requirements of NERC Reliability Standard PRC-005-1.

⁴ See 18 C.F.R. § 39.7(c)(2).

instant violation and facilitate future compliance under the terms and conditions of the Settlement Agreement. Accordingly, the alleged violation identified as NERC Violation Tracking Identification Number WECC200901410 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 6, 2009, by and between WECC and MIDE, 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 (\$)
WECC	Mirant Delta, LLC	NOC-393	WECC200901410	PRC-005-1	2.1	High ⁵	11,500

PRC-005-1

The purpose of Reliability Standard PRC-005-1 is to ensure all transmission and generation Protection Systems⁶ affecting the reliability of the bulk power system (BPS) are maintained and tested.

PRC-005-1 R2 requires each Generator Owner, such as MIDE, that owns a generation Protection System to provide documentation of its Protection System maintenance and testing program and the implementation of that program to its Regional Entity on request (within 30 calendar days). The documentation of the program implementation must include: (R2.1) evidence Protection System devices were maintained and tested within the defined intervals; and (R2.2) the date each Protection System device was last tested/maintained. PRC-005-1 R2 has a "Lower" Violation Risk Factor (VRF) and its sub-requirements each have a "High" VRF.

⁵ PRC-005-1 R2 has a "Lower" Violation Risk Factor (VRF) and its sub-requirements each have a "High" VRF. During a final review of the standards subsequent to the March 23, 2007 filing of the Version 1 VRFs, NERC identified that some standards requirements were missing VRFs. One of these was PRC-005-1 R2.1. On May 4, 2007, NERC assigned PRC-005-1 R2.1 a "High" VRF. In the Commission's June 26, 2007 Order on Violation Risk Factors, the Commission approved the PRC-005-1 R2.1 "High" VRF as filed. Therefore, the "High" VRF was in effect from June 26, 2007.

⁶ *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."

During the Audit, the WECC Audit Team (Audit Team) reviewed MIDE's documentation of its generation Protection System maintenance and testing program, MIDE's *PPP-Protection System Relays-PRC-005* documentation, implementation of the program and a summary spreadsheet listing all the Protection System devices associated with MIDE's five generating units. The summary list included previous calibration dates, the most recent calibration date, previous testing dates, and the most recent test date of each protective device, including relays, voltage and current sensing devices, station batteries, DC control circuitry and associated communication system.

MIDE's *PPP-Protection System Relays-PRC-005* showed that MIDE tested relays for MIDE's Pittsburg Unit 7 generator in March of 2009, but did not list dates for previous functional testing results. As a result, the Audit Team contacted MIDE to request additional evidence of previous functional testing on Pittsburg Unit 7's relays. On April 23, 2009, the Audit Team interviewed MIDE's Director of Operations and MIDE's Compliance Administrator, and asked them to provide WECC with log book entries or maintenance logs that evidenced MIDE's past functional testing of the Pittsburg Unit 7 relays. Subsequently, MIDE could not provide documentation of previous functional testing on Pittsburg Unit 7 but determined that it probably occurred in January 2003. As a result, the Audit Team determined that MIDE had a possible violation of PRC-005-1 R2, specifically PRC-005-1 R2.1.

WECC's Enforcement Department (Enforcement) reviewed MIDE's documentation and the Audit findings. Enforcement determined that MIDE had failed to document that it had maintained and tested its Protection System relays on Pittsburg Unit 7 within defined intervals. Twenty relays are associated with MIDE's Pittsburg Unit 7 generating unit. MIDE owns and operates 104 Protection System relays across five generating units so MIDE was missing evidence that it had maintained and tested its Protection System relays for 19% of its total generation Protection System's relays.

Enforcement concluded that MIDE had an alleged violation of PRC-005-1 R2.1 from August 10, 2007, the date MIDE was included on the NERC Registry, through March 31, 2009, the date that MIDE completed its Mitigation Plan.

Regional Entity's Basis for Penalty

According to the Settlement Agreement, WECC has assessed a penalty of eleven thousand five hundred dollars (\$11,500) for the referenced alleged violation. In reaching this determination, WECC considered the following factors:

- (1) this violation constituted MIDE's first occurrence of violation of the instant NERC Reliability Standard PRC-005-1 R2.1;
- (2) MIDE's Pittsburg Unit 7 is a 682 MW generator connected to the transmission system at 230 kV. If a protective device, such as a relay, operated incorrectly the generator could inadvertently trip. For this reason, although WECC determined that the alleged violation did not create a serious or substantial risk to the BPS, WECC determined that it did pose a moderate risk to the reliability of the BPS;
- (3) MIDE was cooperative throughout the compliance enforcement process; and

(4) there was no evidence of intent or of any attempt to conceal the violation.

After consideration of these and the above factors, WECC determined that, in this instance, the penalty amount of eleven thousand five hundred dollars (\$11,500) is appropriate and bears a reasonable relation to the seriousness and duration of the alleged violation.

Status of Mitigation Plan⁷

PRC-005-1 R2.1

MIDE's Mitigation Plan to address its alleged violation of PRC-005-1 R2.1 was submitted to WECC on July 16, 2009, stating it had been completed in March 2009.⁸ The Mitigation Plan was accepted by WECC on September 2, 2009 and approved by NERC on September 11, 2009. The Mitigation Plan for this alleged violation is designated as MIT-07-1960 and was submitted as non-public information to FERC on September 11, 2009 in accordance with FERC orders.

MIDE's Mitigation Plan stated that MIDE had performed the necessary functional testing of the generator protective relays on Pittsburg Unit 7 during the scheduled March 2009 unit outage.

On July 16, 2009, MIDE certified that its Mitigation Plan was completed as of March 2009. As evidence of completion of its Mitigation Plan, MIDE submitted a document titled *PPP U7-Functional Test-Mar-2009*, which stated that MIDE had performed and documented functional testing for the Pittsburg Unit 7 generator protective relays as part of MIDE's unit outage work in March 2009.

On September 3, 2009, after WECC's review of MIDE's submitted evidence, WECC verified that MIDE's Mitigation Plan was completed as of March 31, 2009 and notified MIDE in a letter dated September 22, 2009 that MIDE was in compliance with PRC-005-1 R2.1.

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 WECC's imposition of a financial penalty, assessing a penalty of eleven thousand five hundred dollars (\$11,500) against MIDE and other actions to facilitate future compliance required under the terms and conditions of the Settlement Agreement. In approving the Settlement Agreement, the NERC BOTCC reviewed the applicable requirements of the Commission-approved Reliability Standards and the underlying facts and circumstances of the alleged violation at issue.

⁷ See 18 C.F.R. § 39.7(d)(7).

⁸ The Mitigation Plan did not specify a date.

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).

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

- (1) The alleged violation constituted MIDE's first occurrence of violations of the instant NERC Reliability Standard;
- (2) WECC reported MIDE was cooperative throughout the compliance enforcement process;
- (3) there was no evidence of intent nor of any attempt to conceal the violations; and
- (4) although WECC determined that the alleged violation posed a moderate risk, it did not create a serious or substantial risk to the reliability of the BPS, as discussed above.

For the foregoing reasons, the NERC BOTCC approves the Settlement Agreement and believes that the proposed penalty of eleven thousand five hundred dollars (\$11,500) is appropriate for the violation 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) WECC Audit Report, Public Version Screen Shot, for PRC-005-1 R2.1, included as Attachment a;
- b) Settlement Agreement by and between MIDE and WECC, executed October 6, 2009, included as Attachment b;
- c) MIDE's Mitigation Plan designated as MIT-07-1960 for the alleged violation of PRC-005-1 R2.1 dated July 16, 2009, included as Attachment c;
- d) MIDE's Certification of Completion of Mitigation Plan MIT-07-1960 for the alleged violation of PRC-005-1 R2.1 dated July 16, 2009, included as Attachment d; and
- e) WECC's Verification of Completion of Mitigation Plan MIT-07-1960 dated September 22, 2009, included as Attachment e.

A Form of Notice Suitable for Publication¹¹

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

¹¹ 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>Mirant Delta, LLC James P. Garlick, Senior Vice President of Operations 1155 Perimeter Center West Atlanta, GA 30338 (678) 579-5040 (678) 579-7215 – facsimile Jim.garlick@mirant.com</p> <p>Kandi Forte, Director of Operations 1155 Perimeter Center West Atlanta, GA 30338 (678) 579-5106 (678) 579-6677 – facsimile Kandi.forte@mirant.com</p> <p>*Persons to be included on the Commission's service list are indicated with an asterisk. NERC requests waiver of the Commission's rules and regulations to permit the inclusion of more than two people on the service list.</p>	<p>Rebecca J. Michael* Assistant General Counsel 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>Western Electricity Coordinating Council 615 Arapeen Drive, Suite 210 Salt Lake City, UT 84108-1262</p> <p>Louise McCarren* Chief Executive Officer (801) 883-6868 (801) 582-3918 – facsimile Louise@wecc.biz</p> <p>Constance White* Vice President of Compliance (801) 883-6885 (801) 883-6894 – facsimile CWhite@wecc.biz</p> <p>Steven Goodwill* Associate General Counsel (801) 883-6857 (801) 883-6894 – facsimile SGoodwill@wecc.biz</p> <p>Christopher Luras* Manager of Compliance Enforcement (801) 883-6887 (801) 883-6894 – facsimile CLuras@wecc.biz</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
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/s/ Rebecca J. Michael
Rebecca J. Michael
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holly.hawkins@nerc.net

cc: Mirant Delta, LLC
Western Electricity Coordinating Council


Attachments

Attachment a

WECC Audit Report, Public Version Screen Shot, for PRC-005-1 R2.1

WECC Compliance Database

Post June 18th Violations



Western Electricity Coordinating Council

Compliance and Registration Database

Post Violations Tracking and Reporting

Region: WECC

Violation Date: 4/23/2009

WECC ID: MIDE_WECC20091579

Entity: Mirant Delta, LLC

Acronym: MIDE

Registry ID: NCR05511

NERC violation ID: WECC200901410

Standard: PRC-005-1

Transmission and Generation Protection System Maintenance and Testing

Disposition & Final Record

Mitigation Plan

RAD & RAD Appeal

Internal Notes

Initial Notice

NAVAPS

Proposed Sanction Penalty

Contested Hearing

Requirement: 2.1

Repeat Alleged Violation? ☐

Initial Determination by Region: 4/23/2009

Reporting Method: Compliance Audit

On Site Audit ☐

Off Site Audit ☒

Deemed Date: 6/18/2007

Violation Level: LNC - Level 2

Violation Risk Factor: HIGH

Alleged Violation Time: 0:00

Alleged Violation End Date:

Violation Description:

Also in violation of R2.2 is defined in the program with the exception of the generator protective relays of the Pittsburg Unit 7.

Review of test records demonstrated that Pittsburg Unit 7 had its relays

Regional Contact Person: Rieger, Mary

Applicable Functions: GO

Regional Determination of Impact to BPS: Moderate

Detailed Description of Potential Impact to BPS:

Technical Issue
This is considered to be a Technical Issue because of the lack of documentation to demonstrate the protective relays were tested per the program requirements. The Pittsburg Unit 7 is a 682 MW generator connected to the BPS.

ID sent to Entity:

Additional Comments

Close

Form View

Filtered

start

WOPs

WECC Compliance Da...

4:03 PM

Attachment b

Settlement Agreement by and between MIDE and WECC, executed October 6, 2009

SETTLEMENT AGREEMENT
OF
WESTERN ELECTRICITY COORDINATING COUNCIL
AND
MIRANT DELTA, LLC

WESTERN ELECTRICITY COORDINATING COUNCIL ("WECC") and MIRANT DELTA, LLC ("MIDE")(collectively the "Parties") hereby enter into this Settlement Agreement ("Agreement") on this 25 day of Sept, 2009.

RECITALS

A. The Parties desire to enter into this Agreement to resolve all outstanding issues between them arising from a non-public assessment of MIDE by WECC that resulted in certain WECC determinations and findings regarding one alleged MIDE violation of the following North American Electric Reliability Corporation ("NERC") Reliability Standard ("Reliability Standard"):

NERC ID: WECC200901410: PRC-005-1 R.2 *Transmission and Generation Protection System Maintenance and Testing*

B. MIDE is a Delaware limited liability company that owns and operates the Pittsburg and Contra Costa Power Plants located in Pittsburg and Antioch, California, respectively. The Pittsburg Power Plant consists of three generating units with an aggregate generating capacity of 1,311 MW. The Contra Costa Power Plant consists of two generating units with an aggregate generating capacity of 674 MW. The Pittsburg and Contra Costa Power Plants are interconnected to the transmission system operated by the California Independent System Operator Corporation through substations owned by the Pacific Gas & Electric Company.

C. WECC was formed on April 18, 2002 by the merger of the Western Systems Coordinating Council, Southwest Regional Transmission Association and Western Regional Transmission Association. WECC is one of eight Regional Entities in the United States responsible for coordinating and promoting electric system reliability and enforcing the mandatory Reliability Standards created by NERC under the authority granted in Section 215 of the Federal Power Act. In addition, WECC supports efficient competitive power markets, assures open and non-discriminatory transmission access among members, provides a forum for resolving transmission access disputes, and provides an environment for coordinating the operating and planning activities of its members. WECC's region encompasses a vast area of nearly 1.8 million square miles extending from Canada to Mexico and including 14 western states. It is the largest and most diverse of the eight Regional Entities in the United States.

D. The Parties are entering into this Agreement to settle the disputed matters between them. It is in the Parties' and the public's best interests to resolve this matter efficiently without the delay and burden associated with a contested proceeding. Nothing contained in this Agreement shall be construed as an admission or waiver of either party's rights. Except, however, nothing in this Agreement shall limit or prevent WECC from evaluating MIDE for subsequent violations of the same Reliability Standards addressed herein and taking enforcement action, if necessary. Such enforcement action can include assessing penalties against MIDE for subsequent violations of the Reliability Standards addressed herein in accordance with NERC Rules of Procedure.

NOW, THEREFORE, in consideration of the terms set forth herein, including in the Recitals, WECC and MIDE hereby agree and stipulate to the following:

I. Representations of the Parties

For purposes of this Agreement, MIDE stipulates to the facts contained herein. WECC has established sufficient facts, as set forth herein, to support its determination that MIDE has a Confirmed Violation as this term is defined in the WECC Compliance and Monitoring Enforcement Program ("CMEP"), of the Reliability Standards described below in detail.

II. Confirmed Violation

NERC Reliability Standard PRC-005-1 Requirement 2

R2: *Each Transmission Owner and any Distribution Provider that owns a transmission Protection System and each Generator Owner that owns a generation Protection System shall provide documentation of its Protection System maintenance and testing program and the implementation of that program to its Regional Reliability Organization on request (within 30 calendar days). The documentation of the program implementation shall include:*

R2.1: *Evidence Protection System devices were maintained and tested within the defined intervals.*

R2.2: *Date each Protection System device was last tested/maintained.*

MIDE is subject to this Standard because it was registered on the NERC Compliance Registry on August 10, 2007 as a Generator Owner and it owns a generation Protection System.

On April 23, 2009, after providing 60 days notice, WECC conducted an off-site Compliance Audit ("Audit") of MIDE. MIDE provided documentation of its generation Protection System maintenance and testing program, including the implementation of the program. The WECC Audit Team ("Audit Team") reviewed this documentation during the Audit. Additionally, the Audit Team reviewed MIDE's *PPP-Protection System Relays-PRC-005* documentation. MIDE owns 104 generator Protection System relays across five generating units. The Audit Team also reviewed a summary spreadsheet listing all the Protection System devices associated with MIDE's generating units. This summary list included previous calibration dates,

the most recent calibration date, previous testing dates, and the most recent test date of each protective device.

MIDE's *PPP-Protection System Relays-PRC-005* showed that MIDE tested relays for MIDE's Pittsburgh Unit 7 in March of 2009. However, MIDE's *PPP-Protection System Relays-PRC-005* did not list dates for previous functional testing results for the Pittsburgh Unit 7 generating unit. As a result, the Audit Team contacted MIDE to request additional evidence of previous functional testing on Pittsburgh Unit 7.

On April 23, 2009, the Audit Team interviewed MIDE's Director of Operations and MIDE's Compliance Administrator, and asked them to provide WECC with log book entries or maintenance logs that evidenced MIDE's past functional testing of the Pittsburgh Unit 7 relays. Subsequently, MIDE could not provide documentation of previous functional testing on Pittsburgh Unit 7. As a result, the Audit Team determined that MIDE had a possible violation of PRC-005-1 R2, specifically PRC-005-1 R2.1, and they forwarded MIDE's documentation and the Audit Team's findings to the WECC Enforcement Department ("Enforcement") for its review and consideration.

Enforcement reviewed MIDE's documentation and the Audit findings. Enforcement determined that MIDE had failed to document that it had maintained and tested its Protection System devices on Pittsburgh Unit 7 within defined intervals. Twenty relays are associated with MIDE's Pittsburgh Unit 7 generating unit. MIDE owns and operates 104 Protection System relays across five generating units so MIDE was missing evidence that it had maintained and tested its Protection System devices for 19% of its total generation Protection System. Enforcement concluded that MIDE was in Alleged Violation of PRC-005-1 R2, specifically PRC-005-1 R2.1, from August 10, 2007 through March 31, 2009, the date that MIDE completed its mitigation plan, as discussed in the next paragraph.

On July 16, 2009, MIDE submitted a Certification of Mitigation Plan Completion with a document titled *PPP U7-Functional Test-Mar-2009*. This document showed that MIDE had performed and documented functional testing for the Pittsburgh Unit 7 generator protective relays as part of MIDE's unit outage work in March 2009.

III. Settlement Terms

A. Payment. To settle this matter, MIDE hereby agrees to pay \$11,500.00 to WECC via wire transfer or cashier's check. MIDE shall make the funds payable to a WECC account identified in a Notice of Payment Due that WECC will send to MIDE upon approval of this Agreement by NERC and the Federal Energy Regulatory Commission ("FERC"). MIDE shall issue the payment to WECC no later than twenty days after receipt of the Notice of Payment Due.

The terms of this Agreement, including the agreed upon payment, are subject to review and possible revision by NERC and FERC. Upon NERC approval of the Agreement, NERC will file a Notice of Penalty with FERC. If FERC approves the Agreement, NERC will post the Agreement publicly. If either NERC or FERC rejects the Agreement, then WECC will attempt

to negotiate a revised settlement agreement with MIDE that includes any changes to the Agreement specified by NERC or FERC. If the Parties cannot reach a settlement agreement, the CMEP governs the enforcement process.

B. Settlement Rationale. WECC's determination of penalties in an enforcement action is guided by the statutory requirement codified at 16 U.S.C. § 824o(e)(6) that any penalty imposed "shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner". Additionally, WECC considers the guidance provided by the NERC Sanction Guidelines and by the FERC in Order No. 693 and in its July 3, 2008 Guidance Order on Reliability Notices of Penalty.

Specifically, to determine penalty assessment, WECC considers the following factors: (1) the seriousness of the violation, including the applicable Violation Risk Factor and Violation Severity Level, and the risk to the reliability of the bulk power system ("BPS"); (2) the violation's duration; (3) the Registered Entity's compliance history; (4) the Registered Entity's self-reports and voluntary corrective action; (5) the degree and quality of cooperation by the Registered Entity in the audit or investigation process, and in any remedial action; (6) the quality of the Registered Entity's compliance program; (7) any attempt by the Registered Entity to conceal the violation or any related information; (8) whether the violation was intentional; (9) any other relevant information or extenuating circumstances; and (10) the Registered Entity's ability to pay a penalty.

The following VRF applies to MIDE's Alleged Violation in accordance with NERC's VRF Matrix dated February 3, 2009:

The violation of PRC-005-1 R2.1 has a High VRF. MIDE's Pittsburg Unit 7 is a 682 MW generator connected to the transmission system at 230 kV. If a protective device, such as a relay, operated incorrectly then the generator could inadvertently trip. For these reasons, WECC determined that this violation posed a moderate risk to the reliability of the BPS.

In addition to the factors listed above, WECC considered mitigating factors to reach an agreement with MIDE regarding the payment amount. MIDE mitigated the violation. Also, MIDE was cooperative throughout WECC's evaluation of its compliance with the Reliability Standards and the enforcement process.

In reaching this Agreement, WECC considered that there were no aggravating factors warranting a higher payment amount. Specifically, there was no failure by MIDE to comply with applicable compliance directives, nor any evidence of an attempt by MIDE to conceal a violation. Finally, there was no evidence that MIDE's violation was intentional.

IV. Additional Terms

A. Authority. The undersigned representative of each party warrants that he or she is authorized to represent and bind the designated party.

B. Representations. The undersigned representative of each party affirms that he or she has read the Agreement, that all matters set forth in the Agreement are true and correct to the best of his or her knowledge, information, or belief, and that he or she understands that the Agreement is entered into by each party in express reliance on the representations set forth herein.

C. Review. Each party agrees that it has had the opportunity to consult with legal counsel regarding the Agreement and to review it carefully. Each party enters the Agreement voluntarily. No presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

D. Entire Agreement. The Agreement represents the entire agreement between the Parties. No tender, offer, or promise of any kind outside the terms of the Agreement by any member, employee, officer, director, agent, or representative of MIDE or WECC has been made to induce the signatories or the Parties to enter into the Agreement. No oral representations shall be considered a part of the Agreement.

E. Effective Date. The Agreement shall become effective upon FERC's approval of the Agreement by order or operation of law.

F. Waiver of Right to Further Proceedings. MIDE agrees that the Agreement, upon approval by NERC and FERC, is a final settlement of all matters set forth herein. MIDE waives its right to further hearings and appeal, unless and only to the extent that MIDE contends that any NERC or FERC action concerning the Agreement contains one or more material modifications to the Agreement.

G. Reservation of Rights. WECC reserves all of its rights to initiate enforcement, penalty or sanction actions against MIDE in accordance with the Agreement, the CMEP and the NERC Rules of Procedure. In the event that MIDE fails to comply with any of the terms of this Agreement, WECC shall have the right to pursue enforcement, penalty or sanction actions against MIDE up to the maximum penalty allowed by the NERC Rules of Procedure. MIDE shall retain all of its rights to defend against such enforcement actions in accordance with the CMEP and the NERC Rules of Procedure. Failure by WECC to enforce any provision hereof on occasion shall not constitute a waiver by WECC of its enforcement rights or be binding on WECC on any other occasion.

H. Consent. Registered Entity consents to the use of Regional Entity'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 in any enforcement action or compliance proceeding undertaken by NERC and/or Regional Entity; provided, however, that Registered Entity 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 Regional Entity, nor does Registered Entity consent to the use of this Agreement by any other party in any other action or proceeding.

I. Amendments. Any amendments to the Agreement shall be in writing. No amendment to the Agreement shall be effective unless it is in writing and executed by the Parties.

J. Successors and Assigns. The Agreement shall be binding on successors or assigns of the Parties.


K. Governing Law. The Agreement shall be governed by and construed under the laws of the State of Utah.

L. Captions. The Agreement's titles, headings and captions are for the purpose of convenience only and in no way define, describe or limit the scope or intent of the Agreement.

M. Counterparts and Facsimiles. The Agreement may be executed in counterparts, in which case each of the counterparts shall be deemed to be an original. Also, the Agreement may be executed via facsimile, in which case a facsimile shall be deemed to be an original.

Agreed to and accepted:

WESTERN ELECTRICITY COORDINATING COUNCIL




Constance B. White
Vice President of Compliance

10/6/09

Date

MIRANT DELTA, LLC



James P. Garlick
Senior Vice President, Operations

9-25-09

Date

Attachment c

MIDE's Mitigation Plan designated as MIT-07-1960 for the alleged violation of PRC-005-1 R2.1 dated July 16, 2009



Mitigation Plan Submittal Form

New ☒ or Revised ☐

Date this Mitigation Plan is being submitted: 7/16/09

If this Mitigation Plan has already been completed:

- Check this box ☒ and
- Provide the Date of Completion of the Mitigation Plan: March 2009

Section A: Compliance Notices & Mitigation Plan Requirements

- A.1 Notices and requirements applicable to Mitigation Plans and this Submittal Form are set forth in "Appendix A - Compliance Notices & Mitigation Plan Requirements" to this form. **Review Appendix A and check this box ☒ to indicate that you have reviewed and understand the information provided therein.** This Submittal Form and the Mitigation Plan submitted herein are incomplete and cannot be accepted unless the box is checked.

Section B: Registered Entity Information

- B.1 Identify your organization:

Registered Entity Name: Mirant Delta, LLC
 Registered Entity Address: 1155 Perimeter Center West, Atlanta,
 GA 30338
 NERC Compliance Registry ID: NCR05511

- B.2 Identify the individual in your organization who will be the Entity Contact regarding this Mitigation Plan. Please see Section 6.2 of the WECC Compliance Monitoring and Enforcement Program (CMEP) for a description of the qualifications required of the Entity Contact.¹

Name: Enrique Carbia
 Title: Nerc Compliance Manager
 Email: Enrique.carbia@mirant.com

¹ A copy of the WECC CMEP is posted on WECC's website at <http://www.wecc.biz/documents/library/compliance/manuals/Att%20A%20-%20WECC%20CMEP.pdf>. Registered Entities are responsible for following all applicable WECC CMEP procedures. WECC strongly recommends that registered entities become familiar with the WECC CMEP and its requirements, as they may be amended from time to time.



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Phone: 678-579-5678



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

This Mitigation Plan is associated with the alleged or confirmed violation(s) of the reliability standard/requirements listed below:

- C.1 Standard: PRC-005-1
[Identify by Standard Acronym (e.g. FAC-001-1)]
- C.2 Requirement(s) violated and violation dates:
[Enter information in the following Table]

NERC Violation ID # [if known]	WECC Violation ID # [if known]	Requirement Violated (e.g. R3)	Violation Risk Factor	Alleged or confirmed Violation Date ^(*) (MM/DD/YY)	Method of Detection (e.g. audit, self-report, investigation)
WECC200901410	MIDE WECC20091579	R2	High	4/23/09	audit

(*) Note: The Alleged or Confirmed Violation Date shall be: (i) the date the violation occurred; (ii) the date that the violation was self-reported; or (iii) the date upon which WECC has deemed the violation to have occurred. Please contact WECC if you have questions regarding which date to use.

- C.3 Identify the cause of the alleged or confirmed violation(s) identified above:

Mirant Delta, LLC was unable to provide documentation for past relay functional testing within the prescribed interval prior to March 2009 for Pittsburg Unit 7's protective relays. However, functional testing of these relays was performed in March 2009 and relay calibration was completed as prescribed. The plant staff believed this functional testing had been performed, but were unable to provide documentation to confirm it. As the search for documentation continued, it became clear that this testing had not been performed as expected.

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



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

This plant / unit was experiencing staffing changes and the possibility of unit retirement during the time frame of the non-compliance. The previous functional testing had actually been performed in January 2003.

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

Section D: Details of Proposed Mitigation Plan

Mitigation Plan Contents

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

Functional testing for the Pittsburgh Unit 7 generator protective relays was performed and documented as part of the unit outage work in March 2009. See attached file, PPP U7-Functional Test-Mar-2009.
[Provide your response here; additional detailed information may be provided as an attachment as necessary]

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

Mitigation Plan Timeline and Milestones

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

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

Milestone Activity	Proposed Completion Date* (milestones cannot be more than 3 months)
--------------------	--



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	apart)

(*) Note: Implementation milestones should be no more than three (3) months apart for Mitigation Plans with expected completion dates more than three (3) months from the date of submission. As set forth in CMEP section 6.6, adverse consequences could result from failure to complete, on a timely basis, all required actions in this Mitigation Plan, including implementation of milestones. A request for an extension of the completion date of any milestone or of the Mitigation Plan must be received by WECC at least five (5) business days before the relevant milestone or completion date.

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

Additional Relevant Information (Optional)

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

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



Section E: Interim and Future Reliability Risk

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

Abatement of Interim BPS Reliability Risk

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

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

Prevention of Future BPS Reliability Risk

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

Having completed the relay functional testing on Pittsburg Unit 7, Mirant Delta, LLC is now in compliance with PRC-005 and the associated plant Maintenance and Testing Procedure. The document preparation required for the recent off-site audit of Mirant Delta, LLC increased our awareness for the need of routine in-house collection and verification of activities to ensure on-going compliance with the NERC Reliability Standards.

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

- E.3 Your organization may be taking or planning other action, beyond that listed in the Mitigation Plan, as proposed in Part D.1, to prevent or minimize the probability of incurring further violations of the same or



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similar standards requirements listed in Part C.2, or of other reliability standards. If so, identify and describe any such action, including milestones and completion dates:

The Compliance Administrator for Mirant Delta, LLC will be updating the PRC-005 summary spreadsheets on an annual basis and collecting documentation of maintenance and testing activities since the last update.

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



Section F: Authorization

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

- a) Submits the Mitigation Plan, as laid out in Section D of this form, to WECC for acceptance by WECC and approval by NERC, and
- b) If applicable, certifies that the Mitigation Plan, as laid out in Section D of this form, was completed (i) as laid out in Section D of this form and (ii) on or before the date provided as the 'Date of Completion of the Mitigation Plan' on this form, and
- c) Acknowledges:
 1. I am Senior Vice President, Operations of Mirant.
 2. I am an officer, employee, attorney or other person authorized to sign this Mitigation Plan on behalf of Mirant Delta, LLC.
 3. I understand Mirant Delta, LLC's obligations to comply with Mitigation Plan requirements and WECC or ERO remedial action directives and I have reviewed the WECC and ERO documents related to these obligations, including, but not limited to, the WECC CMEP and the NERC Rules of Procedure.
 4. I have read and am familiar with the contents of the foregoing Mitigation Plan.
 5. Mirant Delta, LLC agrees to be bound by, and comply with, the Mitigation Plan, including the timetable completion date, as approved by WECC and approved by NERC.

Authorized Signature: _____

(Electronic signatures are acceptable; see CMEP Section 3.0)

Name (Print): James P. Garlick
 Title: Senior Vice President, Operations
 Date:



Section G: Comments and Additional Information

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

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

Section H: WECC Contact and Instructions for Submission

Please direct any questions regarding completion of this form to:

Mike Wells, Sr. Compliance Engineer

Email: mike@wecc.biz

Phone: (801) 883-6884

For guidance on submitting this form, please refer to the "*WECC Compliance Data Submittal Policy*". This policy can be found on the Compliance Manuals website as Manual 2.12:

<http://www.wecc.biz/wrap.php?file=/wrap/Compliance/manuals.html>



Attachment A – Compliance Notices & Mitigation Plan Requirements

- I. Section 6.2 of the WECC CMEP 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.
 - (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 may be used to provide a required Mitigation Plan for review and approval by WECC and NERC.



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- III. The Mitigation Plan shall be submitted to the WECC and NERC as confidential information in accordance with Section 9.3 of the WECC CMEP and Section 1500 of the NERC Rules of Procedure.
- IV. This Mitigation Plan 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 violations with respect to each additional Reliability Standard, as applicable.
- V. If the Mitigation Plan is approved by WECC and NERC, a copy of the Mitigation Plan will be provided to the Federal Energy Regulatory Commission in accordance with applicable Commission rules, regulations and orders.
- VI. Either WECC or NERC may reject a Mitigation Plan that it determines to be incomplete or inadequate. If the Mitigation Plan is rejected by either WECC or NERC, the Registered Entity will be notified and required to submit a revised Mitigation Plan.
- VII. In accordance with Section 7.0 of the WECC CMEP, remedial action directives also may be issued as necessary to ensure reliability of the bulk power system.

Attachment d

**MIDE's Certification of Completion of
Mitigation Plan MIT-07-1960 for the alleged
violation of PRC-005-1 R2.1 dated July 16, 2009**



Non-Public and CONFIDENTIAL

Certification of Mitigation Plan Completion Form

Submittal of a Certification of Mitigation Plan Completion shall include data or information sufficient for Western Electricity Coordinating Council (WECC) to verify completion of the Mitigation Plan. WECC 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: Mirant Delta, LLC

NERC Registry ID: NCR05511

Date of Submittal of Certification: 7/16/09

NERC Violation ID No(s) (if known): WECC200901410

Standard: PRC-005-1

Requirement(s): 2

Date Mitigation Plan was scheduled to be completed per accepted Mitigation Plan: N/A

Date Mitigation Plan was actually completed: March 2009

Additional Comments (or List of Documents Attached): Functional testing for the Pittsburg Unit 7 generator protective relays was performed and documented as part of the unit outage work in March 2009. See attached file, PPP U7-Functional Test-Mar-2009.

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 P. Garlick

Title: Senior Vice President, Operations of Mirant

Email: jim.garlick@mirant.com

Phone: 678-579-5040

Authorized Signature:

A handwritten signature in blue ink, appearing to read 'J. Garlick', is written over the 'Authorized Signature' label.

Date: 7/16/09

Attachment e

WECC's Verification of Completion of Mitigation Plan MIT-07-1960 dated September 22, 2009

CONFIDENTIAL



Laura Scholl
Managing Director of Compliance

801.819.7619
lscholl@wecc.biz

September 22, 2009

Kandi Forte
Director of Operations
Mirant Delta, LLC
1155 Perimeter Center West
Atlanta, Georgia 30338

NERC Registration ID: NCR05511

Subject: Certification of Completion Response Letter

Dear Kandi Forte,

The Western Electricity Coordinating Council (WECC) received the Certification of Completion and supporting evidence of Mirant Delta, LLC (MIDE) on 8/14/2009 for the alleged violation of Reliability Standard PRC-005-1 Requirement 2.1.

WECC has accepted the Certification of Completion for Requirement 2.1 of the Reliability Standard PRC-005-1 and have found this requirement to be fully mitigated. No further mitigation of this requirement will be required at this time.

If you have any questions or concerns, please contact Phil O'Donnell at podonnell@wecc.biz. Thank you for your assistance in this effort.

Sincerely,

Laura Scholl

Laura Scholl
Managing Director of Compliance

LS:ki

cc: Enrique Carbia, MIDE NERC Compliance Manager
Lisa Milanes, WECC Manager of Compliance Program Administration
Phil O'Donnell, WECC Senior Compliance Engineer

Attachment f

Notice of Filing

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Mirant Delta, LLC

Docket No. NP10-____-000

NOTICE OF FILING

March 1, 2010

Take notice that on March 1, 2010, the North American Electric Reliability Corporation (NERC) filed a Notice of Penalty regarding Mirant Delta, LLC in the Western Electricity Coordinating Council 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