



NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

April 28, 2010

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

**Re: NERC Notice of Penalty regarding Dynegy Inc.
FERC Docket No. NP10-_-000**

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Notice of Penalty¹ regarding Dynegy Inc. (Dynegy),² NERC Registry ID NCR00200,³ 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 from October 15, 2008 through October 27, 2008, (Audit) the ReliabilityFirst Corporation (ReliabilityFirst) identified a possible violation of NERC Reliability Standard FAC-008-1 Requirement (R) 1 for Dynegy's failure to include transformers, relay protective devices, terminal equipment and series/shunt compensation devices in its Facility Ratings Methodology. Additionally, the Facility Ratings Methodology did not consider ratings provided by equipment manufacturers, design criteria, ambient conditions or operating limitations. This Notice of Penalty is being filed with the Commission because ReliabilityFirst and Dynegy have entered into a Settlement Agreement to resolve all outstanding issues arising from a preliminary and non-public assessment resulting in ReliabilityFirst's

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 (2010). *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 March 31, 2010, NERC submitted a Notice of Penalty regarding Dynegy in the SERC Reliability Corporation Region. On April 30, 2010, FERC issued a notice stating it would not engage in further review.

³ Dynegy is registered as a Generator Owner and Generator Operator in four Regional Entity footprints, including ReliabilityFirst, Northeast Power Coordinating Council, Inc., SERC Reliability Corporation and Western Electricity Coordinating Council. ReliabilityFirst Corporation confirmed that Dynegy was included on the NERC Compliance Registry in ReliabilityFirst's region as a Generator Owner and Generator Operator on May 30, 2007. As a Generator Owner, Dynegy is subject to the requirements of NERC Reliability Standard FAC-008-1.

⁴ See 18 C.F.R. § 39.7(c)(2).

determination and findings of the enforceable alleged violation of FAC-008-1, R1. According to the Settlement Agreement, Dynegy neither admits nor denies the alleged violation, but has agreed to the proposed penalty of two thousand five hundred dollars (\$2,500) to be assessed to Dynegy, in addition to other remedies and actions to mitigate the instant violation and facilitate future compliance under the terms and conditions of the Settlement Agreement. Accordingly, the alleged violation identified as NERC Violation Tracking Identification Number RFC200800095 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 December 8, 2009, by and between ReliabilityFirst and Dynegy, which is included as Attachment b and the Supplemental Record Information document issued by ReliabilityFirst on December 11, 2009. 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 (2010), 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 (\$) |
|--------|-------------------|---------|-------------------|------------------|----------|--------------------|--------------------|
| RFC | Dynegy Inc. | NOC-432 | RFC200800095 | FAC-008-1 | 1 | Lower ⁵ | \$2,500 |

FAC-008-1

The purpose of Reliability Standard FAC-008-1 is to ensure that Facility Ratings used in the reliable planning and operation of the bulk power system (BPS) are determined based on an established methodology or methodologies.

FAC-008-1 R1 requires a Generation Owner, such as Dynegy, to document its current methodology used for developing Facility Ratings (Facility Ratings Methodology) of its solely and jointly owned Facilities. Specifically, the methodology shall include all of the following:

(R1.1) a statement that a Facility Rating shall equal the most limiting applicable Equipment Rating of the individual equipment that comprises that Facility;

⁵ When NERC filed Violation Risk Factors (VRFs) it originally assigned FAC-008-1 R1.1, R1.2, R1.2.1 and R1.2.2 Lower VRFs. The Commission approved the VRFs as filed; however, it directed NERC to submit modifications. NERC submitted the modified Medium VRFs and on February 6, 2008, the Commission approved the modified Medium VRFs. Therefore, the Lower VRFs for FAC-008-1 R1.1, R1.2, R1.2.1 and R1.2.2 were in effect from June 18, 2007 until February 6, 2008 when the Medium VRFs became effective. FAC-008-1 R1, R1.3 and R1.3.5 have Lower VRFs and FAC-008-1 R1.3.1, R1.3.2, R1.3.3 and R1.3.4 have Medium VRFs.

- (R1.2) the method by which the Rating (of major BPS equipment that comprises a Facility) is determined;
 - (R1.2.1) the scope of equipment addressed shall include, but not be limited to, generators, transmission conductors, transformers, relay protection devices, terminal equipment, and series and shunt compensation devices;
 - (R1.2.2) the scope of Ratings addressed shall include, as a minimum, both Normal and Emergency Ratings;
- (R1.3) consideration of the following:
 - (R1.3.1) ratings provided by equipment manufactures;
 - (R1.3.2) design criteria (*e.g.*, including applicable references to industry Rating practices such as manufacturer's warranty, IEEE, ANSI or other standards);
 - (R1.3.3) ambient conditions;
 - (R1.3.4) operating limitations; and
 - (R1.3.5) other assumptions.

FAC-008-1 R1 and its sub-requirements R1.3 and R1.3.5 each have a "Lower" VRF. The remaining R1 sub-requirements each have a "Medium" VRF.

According to the Settlement Agreement, during the scheduled off-site Audit, the ReliabilityFirst audit team (Audit Team) discovered a possible violation of FAC-008-1 R1. The Audit Team reviewed Dynegy's Facility Ratings Methodology, *Facility Ratings Methodology for Dynegy Generation –Policy ENG-G01* dated August 1, 2005 and *Facility Ratings Methodology for Dynegy Generation –Procedure G2-02* dated January 7, 2007, which was based on seasonal generator capacity tests. The Facility Ratings of the series components connecting the generating facility to the BPS were deemed to be higher than the generator if the generator test was successful. Dynegy also provided the Audit Team with *Renaissance Operating Procedure 201 – Gas Turbine Operating Procedure* dated October 7, 2005 and *Renaissance Operating Procedure 405 – Generator Step-up Transformer Oil Analysis and Actions* dated July 22, 2003. Dynegy was not able to provide any additional information to show that the scope of the methodology included transformers, relay protective devices, terminal equipment and series/shunt compensation devices or include normal and emergency ratings for this equipment as specified in FAC-008-1 R1.2.1 and R.1.2.2. In addition, the Audit Team found that Dynegy's Facility Ratings Methodology stated that the tested generator capacity would be adjusted for ambient conditions but did not consider ambient conditions for transformers, relay protective devices, terminal equipment and series/shunt compensation devices or consider the ratings provided by equipment manufacturers, design criteria (including applicable references to industry Rating practices such as manufacturer's warranty, IEEE, ANSI or other standards), and operating limitations.

According to the Settlement Agreement, ReliabilityFirst found noteworthy and commendable certain aspects of Dynegy's compliance program including that the compliance program has the support of internal management. Dynegy's Reliability Compliance Manager reports directly to the Executive Vice President of Operations and directly interfaces with him on compliance related issues. Dynegy's Internal Compliance Program is addressed in *Dynegy Generation*

Procedure G9-04 and the *Dynergy Code of Business Conduct and Ethics*. These documents are available to all Dynergy employees via the company Intranet. In addition, *Dynergy Generation Procedure G9-04* has been distributed specifically to applicable Dynergy Plant and Commercial Operation personnel. Dynergy's Internal Compliance Program personnel have had numerous forms of training related to NERC Reliability Standards including informal in-house meetings and external training provided through Regional Compliance seminars.

ReliabilityFirst determined that Dynergy had an alleged violation of FAC-008-1 R1 because Dynergy's *Facility Ratings Methodology* did not include transformers, relay protective devices, terminal equipment and series shunt compensation devices nor did it consider ratings provided by equipment manufacturers, design criteria, ambient conditions or operating limitations for these equipment items.

ReliabilityFirst determined the duration of the alleged violation to be from June 18, 2007, the date the Standard became enforceable, through October 19, 2009 when Dynergy completed its Mitigation Plan.

ReliabilityFirst determined that the alleged violation of FAC-008-1 R1 did not pose a serious or substantial risk to the reliability of the BPS because Dynergy had considered the ratings of all elements in the protection system in their Engineering Design criteria. In developing Dynergy's Facility Ratings Methodology, this information was not included and therefore the violation was a documentation issue not a failure to perform.

Regional Entity's Basis for Penalty

According to the Settlement Agreement, ReliabilityFirst has assessed a penalty of two thousand five hundred dollars (\$2,500) for the referenced alleged violation. In reaching this determination, ReliabilityFirst considered the following factors: (1) this was Dynergy's first assessed non-compliance with FAC-008-1; (2) Dynergy was cooperative throughout the compliance enforcement process; (3) there was no evidence that the alleged violation was intentional or concealed; (4) Dynergy's commitment to compliance, as discussed above; and (5) the alleged violation did not pose a serious or substantial risk to the reliability of the BPS.

After consideration of the above factors, ReliabilityFirst determined that, in this instance, the penalty amount of two thousand, five hundred dollars (\$2,500) is appropriate and bears a reasonable relation to the seriousness and duration of the alleged violation.

Status of Mitigation Plan⁶

Dynergy's Mitigation Plan to address its alleged violation of FAC-008-1 R1 was submitted to ReliabilityFirst on October 27, 2009 as already completed as of October 19, 2009. The Mitigation Plan was accepted by ReliabilityFirst on October 30, 2009 and approved by NERC on November 3, 2009. The Mitigation Plan for this alleged violation is designated as MIT-08-2091 and was submitted as non-public information to FERC on November 3, 2009 in accordance with FERC orders.

⁶ See 18 C.F.R § 39.7(d)(7).

Dynergy's Mitigation Plan required Dynergy to (1) revise its corporate policy *Facility Ratings Methodology for Dynergy Generation* –Policy ENG-G01 to clarify the additional Facility Rating Methodology for Dynergy-owned facilities; (2) revise *Facility Ratings Methodology for Dynergy Generation* –Procedure G2-02 to clarify the additional Facility Rating Methodology for Dynergy-owned facilities; and (3) complete the Facility Ratings for all Dynergy plants in the ReliabilityFirst Region using the revised policy and procedure.

Dynergy certified on November 4, 2009 that the above Mitigation Plan requirements were completed on October 19, 2009. As evidence of completion of its Mitigation Plan, Dynergy submitted the following:

- *Facility Ratings Methodology for Dynergy Generation* –Policy ENG-G01, Revision No. 1, October 19, 2009 was clarified for the additional Facility Rating Methodology for Dynergy-owned facilities. The procedure was revised to include transformers, relay protective devices, terminal equipment, series and shunt compensation devices. Normal and emergency ratings, and consideration of ratings provided by equipment manufacturers, design criteria, ambient conditions, and operating limitations were also included.
- *Facility Ratings Methodology for Dynergy Generation* –Procedure G2-02, Revision No. 1, October 19, 2009 was clarified for the additional Facility Rating Methodology for Dynergy-owned facilities. Appendix C includes a table with the scope of equipment required in R1.2.1 and lists all the required data used to determine equipment ratings. This appendix also includes *Equipment Rating Data Collection Forms* which provide the equipment ratings for all Dynergy generating facilities.
- Facility Ratings for all Dynergy plants in the ReliabilityFirst Region were completed using the two revised procedures and the *Equipment Rating Data Collection Forms* for all Dynergy generating facilities. Each form lists the entire equipment specific to a particular Dynergy generating facility with the related voltage, amperes, MVA and notes the basis for determination of each rating.

On December 4, 2009, after reviewing Dynergy's submitted evidence, ReliabilityFirst verified that Dynergy's Mitigation Plan was completed on October 19, 2009 and that Dynergy was in compliance with FAC-008-1 R1.

Statement Describing the Proposed Penalty, Sanction or Enforcement Action Imposed⁷

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,⁸ the NERC BOTCC reviewed the Settlement Agreement and supporting documentation on March 10, 2010. The NERC BOTCC approved the Settlement Agreement, including ReliabilityFirst's imposition of a

⁷ See 18 C.F.R. § 39.7(d)(4).

⁸ *North American Electric Reliability Corporation*, "Guidance Order on Reliability Notices of Penalty," 124 FERC ¶ 61,015 (2008).

financial penalty, assessing a penalty of two thousand five hundred dollars (\$2,500) against Dynergy and other actions to facilitate future compliance required under the terms and conditions of the Settlement Agreement. In approving the Settlement Agreement, the NERC BOTCC reviewed the applicable requirements of the Commission-approved Reliability Standards and the underlying facts and circumstances of the alleged violation at issue.

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

- (1) the alleged violation constituted Dynergy's first occurrence of a violation of NERC Reliability Standard FAC-008-1;
- (2) ReliabilityFirst reported Dynergy was cooperative throughout the compliance enforcement process;
- (3) ReliabilityFirst reported noteworthy aspects of Dynergy's compliance program as discussed above;
- (4) there was no evidence of any attempt to conceal a violation nor evidence of intent to do so; and
- (5) ReliabilityFirst determined that the alleged violations did not pose a serious or substantial risk to the BPS, as discussed above.

For the foregoing reasons, the NERC BOTCC approves the Settlement Agreement and believes that the proposed penalty of two thousand five hundred dollars (\$2,500) 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) ReliabilityFirst's Compliance Audit Report – Public Version for Dynegy dated March 22, 2009, included as Attachment a;⁹
- b) Settlement Agreement by and between ReliabilityFirst and Dynegy executed December 8, 2009, included as Attachment b;
 - i) Dynegy's Mitigation Plan for FAC-008-1 R1 designated as MIT-08-2091 submitted October 27, 2009, included as Attachment a to the Settlement Agreement;
 - ii) Dynegy's Certification of Completion of the Mitigation Plan for FAC-008-1 R1 dated November 4, 2009, included as Attachment b to the Settlement Agreement; and
 - iii) ReliabilityFirst's Verification of Completion of the Mitigation Plan dated December 4, 2009, included as Attachment c to the Settlement Agreement.

A Form of Notice Suitable for Publication¹⁰

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

⁹ There are three other possible violations listed on the audit report for VAR-002-1 R1, R2 and R3 (NERC Violation ID Nos. RFC200900096, RFC200900097, and RFC200900098). All three possible violations were subsequently dismissed *via* a Notice of Dismissal on October 2, 2009.

¹⁰ 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>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> <p>For Dynegy Inc. :</p> <p>Dan Roethemeyer* NERC Compliance Manager Dynegy Inc. 133 South Fourth Street, Suite 306 Springfield, IL 62701-1232 (217) 492-6605 Dan.Roethemeyer@dynegy.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>For ReliabilityFirst Corporation:</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> |
|---|--|

Conclusion

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

Respectfully submitted,

/s/ Rebecca J. Michael

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cc: Dynegy Inc.
ReliabilityFirst Corporation

Attachments

Attachment a

ReliabilityFirst's Compliance Audit Report – Public Version for Dynegy dated March 22, 2009



Compliance Audit Report Public Version

Dynegy Inc.
NERC ID# NCR00200

**Confidential Information (including Privileged and
Critical Energy Infrastructure Information)
Has Been Removed**

Date of Audit: October 15 - October 27, 2008

Date of Audit Report: March 22, 2009

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Executive Summary

An off-site compliance audit of Dynegy Inc. was conducted from October 15, 2008 to October 27, 2008. At the time of the audit, Dynegy Inc. was registered for the Generator Owner (GO) and Generator Operator (GOP) functions.

The audit team evaluated Dynegy Inc. for compliance with forty six (46) requirements in nineteen (19) NERC Reliability Standards and one (1) requirement in one (1) *ReliabilityFirst* Standard for the period of June 18, 2007 to October 27, 2008. The audit team also reviewed Dynegy Inc. Mitigation Plan MIT-08-0605. Dynegy Inc. submitted information and documentation to aid the audit team's evaluation of compliance with standards and review of the mitigation plan. The audit team reviewed and evaluated all information provided by Dynegy Inc. to assess compliance with standards applicable to the GO and GOP functions.

Based on the information and documentation provided by Dynegy Inc., the audit team made the following determinations: eight (8) requirements and four (4) NERC Reliability Standards were determined to be not applicable to Dynegy Inc.; Dynegy Inc. was found to be compliant with thirty four (34) of thirty eight (38) applicable requirements and thirteen (13) of fifteen (15) applicable NERC Reliability Standards. The audit team also found that the one (1) requirement in the one (1) *ReliabilityFirst* Standard was not applicable to Dynegy Inc. The audit team identified four (4) possible compliance violations associated with two (2) NERC Reliability Standards. Possible compliance violations were identified for FAC-008-1 R1 sub-requirements R1.2.1, R1.2.2, R1.3, R1.3.1, R1.3.2, R1.3.3, R1.3.4 and VAR-002-1 R1, R2, R3 and sub-requirement R3.1.

These results and the basis for the possible violations are further explained in the Findings in the Audit Results section of this report which includes detailed information of the audit team's determination of applicability and compliance for the Reliability Standards within the scope of the compliance audit. This information may be used to help determine the severity level of sanctions and penalties. The possible compliance violations will be processed through the NERC and *ReliabilityFirst* Compliance Monitoring and Enforcement Program (CMEP). Any further actions related to possible compliance violations will be through the CMEP process.

The audit team also evaluated the actions taken by Dynegy Inc. for the self-reported violation of NERC Reliability Standard VAR-002-1, Requirement 2 at the Ontelaunee Plant on June 17, 2008 under Mitigation Plan MIT-08-0605 and certified it as complete.

Audit Process

The compliance audit process steps are detailed in the NERC and ReliabilityFirst Compliance Monitoring and Enforcement Programs (CMEP). The NERC and ReliabilityFirst CMEP generally conform to the United States Government Accountability Office Government Auditing Standards and other generally accepted audit practices.

Objectives

All registered entities are subject to audit for compliance with all Reliability Standards applicable to the functions for which the entity is registered. The audit objectives are to:

- Review Dynegy Inc.'s compliance with the requirements of Reliability Standards that are applicable to Dynegy Inc. based on the functions that Dynegy Inc. is registered to perform.
- Validate compliance with applicable Reliability Standards from the NERC 2008 Implementation Plan list of actively monitored standards, and additional NERC Reliability Standards selected by ReliabilityFirst.
- Validate compliance with applicable Regional Standards from the ReliabilityFirst 2008 Implementation Plan list of actively monitored standards.
- Validate evidence of self-reported violations and previous self-certifications, confirm compliance with other applicable Reliability Standards, and review the status of associated mitigation plans.
- Document the compliance culture and the compliance program of Dynegy Inc.

Scope

The scope of the compliance audit included applicable NERC Reliability Standards in the NERC 2008 Implementation Plan and applicable Regional Standards from the ReliabilityFirst 2008 Implementation Plan and a review of the status of associated mitigation plans.

At the time of the audit, Dynegy Inc. was registered for the functions of Generator Owner (GO) and Generator Operator (GOP). The audit team evaluated Dynegy Inc. for compliance with nineteen (19) NERC Reliability Standards and one (1) ReliabilityFirst Standard for the period of June 18, 2007 to October 27, 2008.

Confidentiality and Conflict of Interest

Confidentiality and Conflict of Interest of the audit team are governed under the ReliabilityFirst Delegation Agreement with NERC, and Section 1500 of the NERC Rules of Procedure. Dynegy Inc. was informed of the ReliabilityFirst obligations and responsibilities under the agreement and procedures. The work history for each audit team member was provided to Dynegy Inc. in advance of the audit. Dynegy Inc. was given an opportunity to object to an audit team member

on the basis of a possible conflict of interest or the existence of other circumstances that could interfere with an audit team member's impartial performance of duties. Dynegy Inc. had not submitted any objections by the stated fifteen day objection due date and accepted the audit team member participants without objection.

Off-site Audit

Dynegy Inc. is currently subject to a compliance audit at a minimum of once every six years. Dynegy Inc. was provided with a sixty (60) day notification of this scheduled audit and at that time, all necessary documents required by the ReliabilityFirst audit process were provided. The following documents were provided to Dynegy Inc. as part of the notification:

- 60-day Notification letter which contained a request for evidence, information and data submittals
- Compliance Audit Survey
- Internal Compliance Program Survey
- Audit Agenda as applicable
- Audit Team Work History with discussion of objection process
- General Instructions for Data or Information Submittals
- Reliability Standard Auditor Worksheets (RSAWs)
- Reliability Standard Questionnaires

Documents were provided to Dynegy Inc. in both electronic and hardcopy format. On September 18, 2008, Dynegy Inc. requested an extension of the document submittal deadline from September 29, 2008 to October 6, 2008 resulting from damage to their Houston Office by Hurricane Ike. ReliabilityFirst granted this request and also offered to delay the audit start date to the week of October 20th, 2008.

ReliabilityFirst discussed the usage of technical experts with Dynegy Inc. and allowed their use as deemed necessary by Dynegy Inc. to provide the audit team with an understanding of the evidence provided to demonstrate their compliance to the standards.

An audit agenda was provided to Dynegy Inc. in advance to allow the necessary time to prepare for the audit. Dynegy Inc.'s cooperation and flexibility with the agenda was appreciated by the audit team.

At times, and according to the generally accepted government auditing standard 3.31, auditors are required to use professional judgment in planning, performing audits, attestation engagements and in reporting the results.

Additionally, and with the generally accepted government auditing standard 3.39, while this standard places responsibility on each auditor and audit organization to exercise professional judgment in planning and performing an audit or attestation engagement, it does not imply

unlimited responsibility, nor does it imply infallibility on the part of either the individual auditor or the audit organization.

Professional judgment does not mean eliminating all possible limitations or weaknesses associated with a specific audit, but rather identifying, considering, minimizing, mitigating, and explaining them.

Methodology

The audit team conducted the audit off-site at the ReliabilityFirst offices in Akron, Ohio. The audit team reviewed the information, evidence and data submitted by Dynegy Inc. and assessed compliance with requirements of applicable Reliability Standards. The audit team requested and received additional information and clarification from subject matter experts when the audit team determined it was necessary.

Opening Briefing

An Opening Briefing was conducted on October 15, 2008 utilizing a WebEx PowerPoint presentation to discuss the following:

- Introduction of audit team
- Audit Objective and Scope
- Team Audit Expectations
- Discussion on Clarification Calls
- Audit Process
- Exit Briefing and schedule

Audit

The Audit team consisted of one ReliabilityFirst Compliance staff member and one contract auditor. The ReliabilityFirst Compliance staff member was designated as the audit team lead responsible for facilitating the audit process, serving as the primary contact person for the audit team, and completing the audit report. The audit team worked together to review evidence provided by Dynegy Inc. and assessed compliance with the requirements of the standards that were audited. Requests for additional information, verification and clarification were communicated to the Dynegy Inc. primary contact throughout the audit process. Dynegy Inc. was NOT permitted to create new documents or edit existing material or documents that were previously provided as evidence.

Exit Briefing

The audit team conducted an exit briefing with Dynegy Inc. on October 27, 2008 utilizing a WebEx PowerPoint presentation. The Dynegy Inc. primary and alternate compliance contacts and two other Dynegy Inc. personnel participated in the exit briefing. Two individuals from the ReliabilityFirst enforcement group were also requested by the audit team to participate. The status of the off-site audit process was discussed, followed by audit scope, preliminary audit findings, and compliance audit report process. Possible violations identified during the audit were discussed with the preliminary results. Dynegy Inc. was provided an opportunity to ask questions that the audit team and the ReliabilityFirst enforcement group addressed.

Company Profile

Dynegy provides wholesale power, capacity and ancillary services to utilities, cooperatives, municipalities and other energy companies in 13 states in key U.S. regions of the Midwest, the Northeast and the West Coast. The company's power generation portfolio consists of more than 18,000 megawatts of baseload, intermediate and peaking power plants fueled by a mix of coal, fuel oil and natural gas. Geographic, dispatch and fuel diversity contribute to a portfolio that is well-positioned to capitalize on regional differences in power prices and weather-driven demand.

Audit Specifics

The compliance audit was conducted from October 15, 2008 to October 27, 2008 at the ReliabilityFirst offices in Akron, Ohio.

Audit Team Participants

| Audit Team Role | Title | Company |
|------------------------|----------------------------|------------------|
| Team Lead | Senior Compliance Engineer | ReliabilityFirst |
| Team Member | Consultant | ReliabilityFirst |

Dynegy Inc. Audit Participants

| Title | Organization |
|--|---------------------|
| Director – Electric System Operations and Compliance | Dynegy Inc. |
| Manager – NERC Compliance | Dynegy Inc. |
| Manager, Electric Systems | Dynegy Inc. |
| Manager - NERC Regional Compliance | Dynegy Inc. |
| Senior Director - Dispatch | Dynegy Inc. |

Audit Results

The audit team evaluated Dynegy Inc. for compliance with forty six (46) requirements in nineteen (19) NERC Reliability Standards and one (1) requirement in one (1) Reliability *First* Standard for the period of June 18, 2007 to October 27, 2008. The audit team used data provided by Dynegy Inc. to determine compliance with the standards. Based on the information provided by Dynegy Inc., of the nineteen (19) Reliability Standards audited, eight (8) requirements and four (4) NERC Reliability Standards were determined to be not applicable. Dynegy Inc. was found to be compliant with thirty four (34) of thirty eight (38) applicable requirements and thirteen (13) of fifteen (15) applicable NERC Reliability Standards. The audit team also found that the one (1) requirement in the one (1) Reliability *First* Standard was not applicable to Dynegy Inc. The audit team found Dynegy Inc. to have possible violations of four (4) requirements in two (2) NERC Reliability Standards.

The audit team also certified that Mitigation Plan MIT-08-0605 was complete for the Dynegy Inc. self-reported violation of NERC Reliability Standard VAR-002-1, Requirement 2 at the Ontelaunee Plant on June 17, 2008.

The audit team carefully and methodically reviewed the submitted evidence and discussed findings as a team to determine if the evidence met the requirements of the Reliability Standards. If the evidence was inadequate or did not cover all of the requirements in the Reliability Standard, the audit team asked for additional evidence and/or clarification. Dynegy Inc. provided a primary compliance contact and subject matter experts for clarification during the audit. Throughout the audit, the audit team members took notes on findings of evidence of compliance.

The audit team reviewed documentation in hardcopy and electronic forms provided by Dynegy Inc. The electronic forms were requested by the audit team when additional evidence or clarification was required by Dynegy Inc. Dynegy Inc. did not provide electronic forms of the hardcopy evidence in their document submittals to Reliability *First*.

Findings

The following table details the findings for compliance with the Reliability Standards listed in the NERC 2008 Implementation Plan and/or selected for this audit:

| Reliability Standard | Requirement | Finding |
|----------------------|------------------------|--------------------|
| BAL-005-0 | R1 & Sub-Requirements | Compliant |
| CIP-001-1 | R1. | Compliant |
| CIP-001-1 | R2. | Compliant |
| CIP-001-1 | R3. | Compliant |
| CIP-001-1 | R4. | Compliant |
| COM-002-2 | R1 | Compliant |
| EOP-004-1 | R2. | Compliant |
| EOP-004-1 | R3 & Sub-Requirements | Compliant |
| EOP-009-0 | R1. | N/A |
| EOP-009-0 | R2. | N/A |
| FAC-008-1 | R1 & Sub-Requirements | Possible Violation |
| FAC-008-1 | R2. | Compliant |
| FAC-008-1 | R3. | Compliant |
| FAC-009-1 | R1. | Compliant |
| FAC-009-1 | R2. | Compliant |
| IRO-001-1 | R8. | Compliant |
| IRO-004-1 | R4. | Compliant |
| IRO-005-1 | R9 | N/A |
| IRO-005-1 | R13. | Compliant |
| MOD-010-0 | R1. | Compliant |
| MOD-010-0 | R2. | Compliant |
| MOD-012-0 | R1. | Compliant |
| MOD-012-0 | R2. | Compliant |
| PRC-004-1 | R2. | Compliant |
| PRC-004-1 | R3. | Compliant |
| PRC-005-1 | R1 & Sub-Requirements | Compliant |
| PRC-005-1 | R2 & Sub-Requirements | Compliant |
| PRC-016-0 | R1. | N/A |
| PRC-016-0 | R2. | N/A |
| PRC-016-0 | R3. | N/A |
| PRC-017-0 | R1 & Sub-Requirements | N/A |
| PRC-017-0 | R2. | N/A |
| TOP-002-2 | R3. | Compliant |
| TOP-002-2 | R13. | Compliant |
| TOP-002-2 | R14 & Sub-Requirements | Compliant |
| TOP-002-2 | R15. | Compliant |

| | | |
|----------------|-----------------------|--------------------|
| TOP-002-2 | R18. | Compliant |
| TOP-003-0 | R1 & Sub-Requirements | Compliant |
| TOP-003-0 | R2. | Compliant |
| TOP-003-0 | R3. | Compliant |
| VAR-002-1 | R1. | Possible Violation |
| VAR-002-1 | R2 & Sub-Requirements | Possible Violation |
| VAR-002-1 | R3 & Sub-Requirements | Possible Violation |
| VAR-002-1 | R4 & Sub-Requirements | Compliant |
| VAR-002-1 | R5 & Sub-Requirements | Compliant |
| EOP-007-RFC-01 | R4. | N/A |

Compliance Culture

Dynegy's Internal Compliance Program is operated and managed by Dynegy's Reliability Compliance Manager who directly reports to the Executive Vice President- Operations. The individual plants and the Commercial Power Group in Houston are responsible for ensuring compliance with the applicable NERC Reliability Standards. The individual plants report to the three Regional Vice Presidents and the Commercial Power Group reports to the Senior Vice President- Commercial Operations.

The Dynegy Inc. Internal Compliance Program is governed by Dynegy Generation Procedure G9-04 and Dynegy's Code of Business Conduct and Ethics (the Code).

Dynegy Generation Procedure G9-04 augments Dynegy's Code of Business Conduct and Ethics which sets forth Dynegy's expectations regarding lawful and ethical business behavior. The Code outlines an overall culture of compliance that includes a specific commitment to excellence in compliance. The principles included in the Code and the details in Dynegy Generation Procedure G9-04 constitute Dynegy's Internal Compliance Program associated with the NERC Reliability Standards. The scope of this program as it relates to Dynegy Inc. is as follows:

- Requires all Dynegy personnel to complete an annual training module on the Code and formally acknowledge that they have read and understood the Code.
- Requires that the Code is reviewed at least annually.
- Includes provisions for disciplinary action of employees involved in violations if appropriate.
- Summarizes compliance responsibilities for the three organizational groups within Dynegy that are affected by the NERC Reliability Standards. This is further addressed in Dynegy Generation Procedure G9-03.
- Specifies responsibilities for complying with the applicable NERC Reliability Standards and associated Dynegy Generation Procedures. Dynegy's overall philosophy and commitment to NERC compliance is also addressed in Dynegy Policy RGC-G01.
- Specifies responsibilities for maintaining all documentation necessary to demonstrate compliance with all applicable NERC Reliability Standards.

Confidential Information (including Privileged and Critical Energy Infrastructure Information)
Has Been Removed

- Specifies responsibilities for reporting any known or suspected violations of any applicable NERC Reliability Standard.
- Outlines the internal compliance audit process and associated responsibilities.
- Outlines NERC compliance training requirements and associated responsibilities.

Attachment b

**Settlement Agreement by and between
Reliability*First* and Dynegy executed December 8,
2009**



| | | |
|-----------------------------|---|---------------|
| In re |) | |
| |) | |
| Dynegy Inc. |) | |
| |) | |
| |) | |
| |) | DOCKET NUMBER |
| |) | |
| |) | RFC200800095 |
| NERC Registry ID # NCR00200 |) | |
| |) | |

**SETTLEMENT AGREEMENT
OF
RELIABILITYFIRST CORPORATION
AND
DYNEGY INC.**

I. INTRODUCTION

1. ReliabilityFirst Corporation (“ReliabilityFirst”) and Dynegy Inc. (“Dynegy”) 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 Dynegy of the NERC Reliability Standard FAC-008-1, Requirement (R)1.

II. STIPULATION OF FACTS

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

A. BACKGROUND

3. Dynegy is a holding company and conducts all of its business operations, through its subsidiaries. Dynegy is engaged in the production and sale of electric energy, capacity and ancillary services from its fleet of 19 operating power plants in 6 states totaling nearly 13,000 megawatt of generating capacity. Dynegy Holdings Inc. (DHI) is the Company's wholly owned subsidiary. The segments of the Company include the Midwest segment (GEN-MW), the West segment (GEN-WE) and the Northeast segment (GEN-NE). Dynegy sells electric energy, capacity and ancillary services on a wholesale basis from its power generation facilities.
4. ReliabilityFirst staff confirmed that Dynegy is registered on the NERC Compliance Registry as a Generator Owner (GO) and as a Generator Operator (GOP) in the ReliabilityFirst region with the NERC Registry Identification Number of NCR00200 and is therefore subject to compliance with FAC-008-1, Requirement 1.

A. ALLEGED VIOLATION OF FAC-008-1, Requirement 1 – RFC200800095

5. Requirement 1 of FAC-008-1, Requirement 1, states in part,

“The Transmission Owner and Generator Owner shall each document its current methodology used for developing Facility Ratings (Facility Ratings Methodology) of its solely and jointly owned Facilities. The methodology shall include all of the following:

R1.1. A statement that a Facility Rating shall equal the most limiting applicable Equipment Rating of the individual equipment that comprises that Facility.

R1.2. The method by which the Rating (of major BES equipment that comprises a Facility) is determined.

R1.2.1. The scope of equipment addressed shall include, but not be limited to, generators, transmission conductors, transformers, relay protective devices, terminal equipment, and series and shunt compensation devices.

R1.2.2. The scope of Ratings addressed shall include, as a minimum, both Normal and Emergency Ratings.

R1.3. Consideration of the following:

R1.3.1. Ratings provided by equipment manufacturers.

R1.3.2. Design criteria (e.g., including applicable references to industry Rating practices such as manufacturer’s warranty, IEEE, ANSI or other standards).

R1.3.3. Ambient conditions.

R1.3.4. Operating limitations.

R1.3.5. Other assumptions.

6. An off-site compliance audit of Dynegy was conducted from October 15, 2008 to October 27, 2008. The audit team reviewed the Dynegy Facility Ratings Methodology, which is based on seasonal generator capacity tests. The facility ratings of the series components connecting the generating facility to the Bulk Electric System are deemed to be higher than the generator if the generator test is successful. Dynegy provided the audit team with Renaissance Operating Procedure 201 – Gas Turbine Operating Procedure dated October 7, 2005 and Renaissance Operating Procedure 405 – Generator Step-up Transformer Oil Analysis and Actions dated July 22, 2003. Dynegy was not able to provide any additional information to show that the scope of the methodology includes transformers, relay protective devices, terminal equipment and series/shunt compensation devices as specified in R1.2.1. The Dynegy Facility Ratings Methodology states that the tested generator capacity will be adjusted for ambient conditions however it does not consider ambient conditions for transformers, relay protective devices, terminal equipment and series/shunt compensation devices or consider the following: Ratings provided by equipment manufacturers, Design criteria (including applicable references to industry Rating practices such as manufacturer's warranty, IEEE, ANSI or other standards), and Operating limitations.
7. ReliabilityFirst alleges that the scope of the Dynegy Facility Ratings methodology did not include transformers, relay protective devices, terminal equipment and series shunt compensation devices. In addition, the Facility Ratings Methodology did not consider ratings provided by equipment manufacturers, design criteria, ambient conditions or operating limitations.

III. PARTIES' SEPARATE REPRESENTATIONS

STATEMENT OF RELIABILITYFIRST AND SUMMARY OF FINDINGS

8. ReliabilityFirst considers this Agreement as the resolution of all issues with regard to the above captioned docket number and to bind Dynegy in the commitment to perform actions hereafter enumerated and listed as conditions for this Agreement.
9. FAC-008-1, Requirement 1 has a Violation Risk Factor (VRF) of Lower, as evidenced by the NERC Violation Risk Factor Matrix.
10. ReliabilityFirst found noteworthy and commendable certain aspects of Dynegy's compliance program including that the compliance program has the support of internal management. Dynegy's Director- Electric Systems Operations and Compliance reports directly to the Managing Director – Asset Management and Trading and directly interfaces with him on compliance related issues. Dynegy's Internal Compliance Program is addressed in Dynegy Generation Procedure G9-04 and the Dynegy Code of Business Conduct and Ethics. These documents are available to all Dynegy employees via the company Intranet. In addition, Dynegy

Generation Procedure G9-04 has been distributed specifically to applicable Dynegy Plant and Commercial Operation personnel. Dynegy's Internal Compliance Program personnel have had numerous forms of training related to NERC Reliability Standards including informal in-house "tailgate" meetings and external training provided through Regional Compliance seminars.

11. 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 DYNEGY

12. Dynegy neither admits nor denies that the facts set forth and agreed to by the parties for purposes of this Agreement constitute violations of FAC-008-1, Requirement 1.
13. Dynegy 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. Dynegy 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 FAC-008-1, Requirement 1 – RFC200800095

14. On October 27, 2009, Dynegy submitted to ReliabilityFirst a Mitigation Plan to address the Alleged Violation set forth in this Agreement. On October 30, 2009, ReliabilityFirst accepted the Mitigation Plan (Mitigation Plan Tracking #MIT-08-2091), *see* Attachment a), and submitted the accepted Mitigation Plan to NERC. NERC approved the Mitigation Plan on November 3, 2009 and submitted the Mitigation Plan to FERC as confidential, non-public information on November 3, 2009. Dynegy submitted to ReliabilityFirst a certification of completion of the Mitigation Plan, dated November 4, 2009, which stated that the Mitigation Plan was completed by October 19, 2009 (entitled "Certification of Mitigation Plan Completion", *see* Attachment b), and also submitted evidence of completion of the Mitigation Plan on November 4, 2009.
15. In the Mitigation Plan, Dynegy outlined 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. Revise Dynegy Generation Operations Policy No. ENG-G01 to clarify the additional facility rating methodology for Dynegy owned facilities. (Completed by October 19, 2009)

- b. Revise Dynegy Generation Operations Procedure G2-02 to clarify the additional facility rating methodology for Dynegy owned facilities. (Completed by October 19, 2009)
 - c. Complete the Facility Ratings for all Dynegy Plants in RFC using the Revised Policy and Procedure. (Completed by October 19, 2009)
- 16. ReliabilityFirst reviewed the evidence Dynegy submitted in support of its certification of completion of the Mitigation Plan. ReliabilityFirst performed an in-depth review to verify that all actions specified in the Mitigation Plan were successfully completed. On December 4, 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”).
- 17. Dynegy shall pay a monetary penalty of \$2,500 to ReliabilityFirst. ReliabilityFirst shall present an invoice to Dynegy 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.
- 18. 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 Dynegy related to this Settlement Agreement.
- 19. Dynegy shall pay \$2,500 to ReliabilityFirst as stated in this Settlement Agreement. However, if Dynegy 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. Dynegy shall retain all rights to defend against such additional enforcement actions in accordance with NERC Rules of Procedure.
- 20. 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 violation that initiated this Settlement and/or additional violation(s) and may subject Dynegy to new or additional enforcement, penalty or sanction actions in accordance with the NERC Rules of Procedure.
- 21. If Dynegy does not make the monetary penalty payment above at the times agreed by the parties, interest payable to ReliabilityFirst will begin to accrue

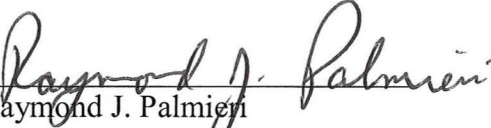
pursuant to the Commission's regulations at 18 C.F.R. § 35.19a(a)(2)(iii) from the date that payment is due, in addition to the penalty specified above.

V. ADDITIONAL TERMS


22. 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 Dynegy has been made to induce the signatories or any other party to enter into the Agreement.
23. 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 Dynegy 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 Dynegy 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.
24. 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.
25. Dynegy agrees that this Agreement, when approved by NERC and the Commission, shall represent a final settlement of all matters set forth herein and Dynegy waives its right to further hearings and appeal, unless and only to the extent that Dynegy contends that any NERC or Commission action on the Agreement contains one or more material modifications to the Agreement.
26. ReliabilityFirst reserves all rights to initiate enforcement, penalty or sanction actions against Dynegy in accordance with the NERC Rules of Procedure in the event that Dynegy fails to comply with the mitigation plan and compliance program agreed to in this Agreement. In the event that Dynegy 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 Dynegy as allowed by the NERC Rules of Procedure, up to the maximum statutorily allowed penalty. Dynegy shall retain all rights to defend against such enforcement actions, also according to the NERC Rules of Procedure.

27. Dynegy 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 in any enforcement action or compliance proceeding undertaken by NERC and/or any Regional Entity; provided, however that Dynegy 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 Dynegy consent to the use of this Agreement by any other party in any other action or proceeding.
28. 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.
29. 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.
30. The Agreement may be signed in counterparts.
31. 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

12/8/09
Date


Dan Roethemeyer
NERC Compliance Manager
Dynegy Inc.

12/7/09
Date

Approved by:


Timothy R. Gallagher
President & CEO
ReliabilityFirst Corporation

12/8/09
Date

Attachment a

Mitigation Plan (MIT-08-2091)

Submitted October 27, 2009

Mit Plan ID #:
MIT-08-2091



RFC200800095

Mitigation Plan Submittal Form

Date this Mitigation Plan is being submitted: October 27, 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 "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: Dynegey Inc.

Company Address: 133 South Fourth Street, Suite 306
Springfield, IL 62701-1232

NERC Compliance Registry ID: NCR00200

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

Name: Greg Mason

Title: Director-Electric System Operations
and Compliance

Email: Gregory.A.Mason@dynegey.com

Phone: (217) 492-6604

RELIABILITY FIRST

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) |
|---------------------|----------------------|--------------------|-----------------------|--|---|
| RFC20080095 | FAC-008-1 | R1 | Lower | 11/25/08 | Audit |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

(*) 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.

The causes of the possible violation(s) identified above include:

An off-site compliance audit of Dynegy was conducted from October 15, 2008 to October 27, 2008. The audit team reviewed the Dynegy Facility Ratings Methodology.

ReliabilityFirst alleged that the scope of the Dynegy Facility Ratings methodology did not include transformers, relay protective devices, terminal equipment and series shunt compensation devices. In addition, Reliability First alleges that the Facility Ratings Methodology did not consider ratings provided by equipment manufacturers, design criteria, ambient conditions or

RELIABILITY FIRST

operating limitations.

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.

N/A

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.

The action plan of Dynegy Inc. includes three specific tasks and actions as follows:

- (1) Revise Dynegy Generation Operations Policy No. ENG-G01 to clarify the additional facility rating methodology for Dynegy owned facilities.
- (2) Revise Dynegy Generation Operations Procedure G2-02 to clarify the additional facility rating methodology for Dynegy owned facilities.
- (3) Complete the Facility Ratings for all Dynegy Plants in RFC using the Revised Policy and Procedure.

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.

RELIABILITY FIRST

The date by which full implementation of the Mitigation Plan described in D.1 above is to be completed was October 19, 2009.

- 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) |
|--|---|
| 1. Revise Dynegy Generation Operations Policy No. ENG-G01 to clarify the additional facility rating methodology for Dynegy owned facilities. | Completed October 19, 2009 |
| 2. Revise Dynegy Generation Operations Procedure G2-02 to clarify the additional facility rating methodology for Dynegy owned facilities. | Completed October 19, 2009 |
| 3. Complete the Facility Ratings for all Dynegy Plants in RFC using the Revised Policy and Procedure. | Completed |
| | |

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

RELIABILITY FIRST

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.

During the implementation of this Mitigation Plan, Dynegy anticipated minimal risks or impacts and subsequent to implementation was not aware of any risks or impacts to the reliability of the Bulk Power System (BPS).

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.

By completing the outlined steps in our Mitigation Plan, the Dynegy Inc. Plants operating in the RFC Region will minimize the probability of a reoccurrence of this violation.

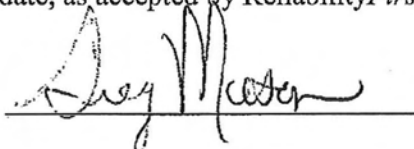
RELIABILITY FIRST

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 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 Director-Electric System Operations and Compliance of Dynegy Inc.
 2. I am qualified to sign this Mitigation Plan on behalf of Dynegy Inc.
 3. I have read and am familiar with the contents of this Mitigation Plan.
 4. Dynegy Inc. agrees to comply with, this Mitigation Plan, including the timetable completion date, as accepted by ReliabilityFirst and approved by NERC.

Authorized Individual Signature



Name (Print):

Greg Mason

Title:
Compliance

Director-Electric System Operations and

Date:

October 27, 2009

Section G: Regional Entity Contact

Please direct completed forms or any questions regarding completion of this form to the ReliabilityFirst Compliance e-mail address mitigationplan@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.

RELIABILITY FIRST

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.

RELIABILITY *FIRST*

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 Reliability*First* 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. Reliability*First* 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.

RELIABILITY FIRST

DOCUMENT CONTROL

Title: Mitigation Plan Submittal Form
Issue: Version 2.0
Date: 11 July 2008
Distribution: Public
Filename: ReliabilityFirst Mitigation Plan Submittal Form - Ver 2.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 |
| 2.0 | Tony Purgar | Revised email address from compliance@rfirst.org to mitigationplan@rfirst.org | 7/11/08 |
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Attachment b

Certification of Mitigation Plan Completion

Submitted November 4, 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: Dynegy Inc.

NERC Registry ID: NCR00200

Date of Submittal of Certification: November 4, 2009

NERC Violation ID No(s): RFC200800095

Reliability Standard and the Requirement(s) of which a violation was mitigated: FAC-008-1, R1

Date Mitigation Plan was scheduled to be completed per accepted Mitigation Plan: October 19, 2009

Date Mitigation Plan was actually completed: October 19, 2009

Additional Comments (or List of Documents Attached): Documents attached are labeled for Milestones 1-3.

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: Greg Mason

Title: Director-Electric System Operations and Compliance

Email: Gregory.A.Mason@dynegy.com

Phone:(217) 492-6604

Authorized Signature

A handwritten signature of Greg Mason in black ink, written over a horizontal line.

Date 11/4/09



Please direct completed forms or any questions regarding completion of this form to the ReliabilityFirst Compliance e-mail address mitigationplan@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.



DOCUMENT CONTROL

Title: Certification of Mitigation Plan Completion
Issue: Version 1
Date: 5 January 2008
Distribution: Public
Filename: Certification of a Completed Mitigation Plan_Ver1.doc
Control: Reissue as complete document only

DOCUMENT APPROVAL

| Prepared By | Approved By | Approval Signature | Date |
|--|---|---|----------|
| Robert K. Wargo Manager of Compliance Enforcement | Raymond J. Palmieri Vice President and Director Compliance |  | 1/5/2009 |

DOCUMENT CHANGE/REVISION HISTORY

| Version | Prepared By | Summary of Changes | Date |
|---------|-----------------|--------------------|----------|
| 1.0 | Robert K. Wargo | Original Issue | 1/5/2009 |
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December 4, 2009

Summary and Review of Evidence of Mitigation Plan Completion

| | |
|-----------------------------|---------------------|
| NERC Violation ID #: | RFC200800095 |
| NERC Plan ID: | MIT-08-2091 |
| Registered Entity; | Dynegy, Inc |
| NERC Registry ID: | NCR00200 |
| Standard: | FAC-008-1 |
| Requirement: | 1 |
| Status: | Compliant |

Dynegy, Inc (“Dynegy”) was audited by Reliability*First* Compliance Staff on October 15-27, 2008 at which time a Possible Violation of Standard FAC-008-1, R1 was identified. Dynegy submitted a Proposed Mitigation Plan to Reliability*First* on October 27, 2009, whereby stating Dynegy would complete all mitigating actions on or about October 19, 2009. This Mitigation Plan, designated MIT-08-2091, was accepted by Reliability*First* on October 30, 2009 and approved by NERC on November 3, 2009.

Review Process:

On November 4, 2009 Dynegy certified that Mitigation Plan for FAC-008-1, Requirement 1, was completed as of October 19, 2009. Reliability*First* requested and received evidence of completion for actions taken by Dynegy as specified in the Mitigation Plan. Reliability*First* performed an in depth review of the information provided to verify that all actions specified in the Mitigation Plan were successfully completed.

FAC-008-1, Requirement 1 states: “The Transmission Owner and Generator Owner shall each document its current methodology for developing Facility Ratings (Facility Ratings Methodology) of its solely and jointly owned Facilities. The methodology shall include all of the following:

R1.1. A statement that a Facility Rating shall equal the most limiting applicable Equipment Rating of the individual equipment that comprises the facility.

R1.2. The method by which the Rating (of major BES equipment that comprises a Facility) is determined.

R1.2.1. The scope of the equipment addressed shall include, but not be limited to, generators, transmission conductors, transformers, relay protective devices, terminal equipment, and series and shunt compensation devices.

R1.2.2. The scope of Ratings addressed shall include, as a minimum, both Normal and Emergency Ratings.

R1.3. Consideration of the following:

R1.3.1. Ratings provided by equipment manufacturers.

Summary and Review of Mitigation Plan Completion

Dynegy, Inc

December 4, 2009

Page 2 of 3

R1.3.2. Design criteria (e.g., including applicable references to industry Rating practices such as manufacturer's warranty, IEEE, ANSI or other standards).

R1.3.3. Ambient conditions.

R1.3.4. Operating limitations.

R1.3.5. Other assumptions."

Evidence Submitted for Milestone No.1:

"Facility Ratings Methodology for Dynegy Generation, Engineering Policy No. ENG-G01, Revision No. 1, October 19, 2009" was clarified for the additional Facility Rating Methodology for Dynegy-owned facilities. The procedure was revised to include transformers, relay protective devices, terminal equipment, series and shunt compensation devices. Normal and emergency ratings, and consideration of ratings provided by equipment manufacturers', design criteria, ambient conditions, and operating limitations were also included as per R1.2.2 and R1.3.

Evidence Submitted for Milestone No.2:

"Facility Ratings Methodology for Dynegy Generation, Engineering Procedure No. G2-02, Revision No. 1, October 19, 2009" was clarified for the additional Facility Rating Methodology for Dynegy-owned facilities. Appendix "C" includes a table with the scope of equipment required in R1.2.1 and lists all the required data used to determine equipment ratings. This appendix also includes Equipment Rating Data Collection Forms which provide the equipment ratings for all Dynegy generating facilities.

Evidence Submitted for Milestone No.3:

Facility Rating for all Dynegy Plants in the Reliability*First* region were completed using the revised "Facility Ratings Methodology for Dynegy Generation, Engineering Policy No. ENG-G01, Revision No. 1, October 19, 2009" and "Facility Ratings Methodology for Dynegy Generation, Engineering Procedure No. G2-02, Revision No. 1, October 19, 2009". "Facility Ratings Methodology for Dynegy Generation, Engineering Procedure No. G2-02, Revision No. 1, October 19, 2009", Appendix "C" includes Equipment Rating Data Collection Forms for all Dynegy generating facilities. Each form lists all the equipment specific to a particular Dynegy generating facility with the related voltage, amperes, MVA and notes the basis for determination of each rating.

Review Results:

Reliability*First* Corporation reviewed the evidence Dynegy submitted in support of its Certification of Completion. On December 4, 2009 Reliability*First* verified that the Mitigation Plan was completed in accordance with its terms and has therefore deemed Dynegy compliant to the aforementioned NERC Reliability Standard.

Summary and Review of Mitigation Plan Completion

Dynegy, Inc

December 4, 2009

Page 3 of 3

Respectfully Submitted,

A handwritten signature in black ink, reading "Robert K. Wargo". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Robert K. Wargo
Manager of Compliance Enforcement
ReliabilityFirst Corporation

Attachment c

Notice of Filing

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Dynegy Inc.

Docket No. NP10-____-000

NOTICE OF FILING
April 28, 2010

Take notice that on April 28, 2010, the North American Electric Reliability Corporation (NERC) filed a Notice of Penalty regarding Dynegy Inc. in the Reliability *First* 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