



NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

July 6, 2010

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

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

Dear Secretary Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Notice of Penalty<sup>1</sup> regarding Covanta York Renewable Energy, LLC (Covanta York), NERC Registry ID# NCR10388,<sup>2</sup> in accordance with the Federal Energy Regulatory Commission's (Commission or FERC) rules, regulations and orders, as well as NERC Rules of Procedure including Appendix 4C (NERC Compliance Monitoring and Enforcement Program (CMEP)).<sup>3</sup>

On February 28, 2009, ReliabilityFirst Corporation (ReliabilityFirst) Compliance Staff conducted a Spot Check<sup>4</sup> of Covanta York and discovered non-compliance with CIP-001-1 Requirement (R) 2, R3 and R4. This Notice of Penalty is being filed with the Commission because ReliabilityFirst and Covanta York have entered into a Settlement Agreement to resolve all outstanding issues arising from a preliminary and non-public assessment resulting in

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<sup>1</sup> *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards* (Order No. 672), III FERC Stats. & Regs. ¶ 31,204 (2006); *Notice of New Docket Prefix "NP" for Notices of Penalty Filed by the North American Electric Reliability Corporation*, Docket No. RM05-30-000 (February 7, 2008). See also 18 C.F.R. Part 39 (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).

<sup>2</sup> ReliabilityFirst confirmed that Covanta York was registered on the NERC Compliance Registry as a Generator Operator with the NERC Registry ID# NCR10388 as of October 2, 2009. Prior to October 2, 2009, Veolia ES York, LLC (Veolia York), formerly known as Montenay York Resource Energy Systems, LLC, was registered on the NERC Compliance Registry on August 22, 2007 with the NERC Registry ID# NCR08064, as the Generator Operator of the York County Resource Recovery Facility (the Facility) at issue in this Notice of Penalty. Due to a change in upstream ownership of the Facility, Veolia York was deregistered. Specifically, Covanta Holding Corporation (Covanta Holding) purchased certain waste-to-energy businesses from Veolia Environmental Services North America Corp. See Form 8-K filed by Covanta Holding with the Securities and Exchange Commission on August 24, 2009. Veolia York was one of the purchased businesses. As part of that transaction, the name of the entity was changed from Veolia York to Covanta York. As a Generator Operator, Covanta York is subject to CIP-001-1 R2, R3 and R4. References below will be made both to Veolia York and Covanta York.

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

<sup>4</sup> On September 29, 2008, Veolia York self-certified that it was "in compliance" with CIP-001-1. On May 4, 2009, Veolia York self-certified that it was "not in compliance" with CIP-001-1 based on a violation previously identified by ReliabilityFirst. No other Self-Certifications for CIP-001-1 were submitted.

ReliabilityFirst's determination and findings of the enforceable violations<sup>5</sup> of CIP-001-1 R2, R3 and R4. According to the Settlement Agreement, Covanta York neither admits nor denies the violations but has agreed to a proposed penalty of seven thousand five hundred dollars (\$7,500) to be assessed to Covanta York, in addition to other remedies and actions to mitigate the instant violations and facilitate future compliance under the terms and conditions of the Settlement Agreement. Accordingly, the violations identified as NERC Violation Tracking Identification Numbers RFC200900131, RFC200900132 and RFC200900133 are being filed in accordance with the NERC Rules of Procedure and the CMEP.

### Statement of Findings Underlying the Violations

This Notice of Penalty incorporates the findings and justifications set forth in the Settlement Agreement executed on December 18, 2009, by and between ReliabilityFirst and Covanta York, which is included as Attachment a and the Supplemental Record Information document issued by ReliabilityFirst on January 18, 2010. 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, NERC provides the following summary table identifying each 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 (\$) |
|--|--|---------|-------------------|------------------|----------|--------|--------------------|
| Reliability<br><i>First</i><br>Corporation | Covanta York<br>Renewable<br>Energy, LLC | NOC-441 | RFC200900131      | CIP-001-1        | 2        | Medium | 7,500              |
|  |  |         | RFC200900132      | CIP-001-1        | 3        | Medium |                    |
|  |  |         | RFC200900133      | CIP-001-1        | 4        | Medium |                    |

#### CIP-001-1

The purpose of Reliability Standard CIP-001-1 is to ensure that all disturbances or unusual occurrences, suspected or determined to be caused by sabotage, are reported to the appropriate systems, governmental agencies, and regulatory bodies.

CIP-001-1 R2 requires that: "Each Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, and Load Serving Entity shall have procedures for the communication of information concerning sabotage events to appropriate parties in the Interconnection."

CIP-001-1 R3 requires that: "Each Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, and Load Serving Entity shall provide its operating personnel with sabotage response guidelines, including personnel to contact, for reporting disturbances due to sabotage events."

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<sup>5</sup> For purposes of this document, the violations at issue are described as "violations," regardless of their procedural posture and whether they were possible, alleged or confirmed violations.

CIP-001-1 R4 requires that: “Each Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, and Load Serving Entity shall establish communications contacts, as applicable, with local Federal Bureau of Investigation (FBI)...and develop reporting procedures as appropriate to their circumstances.”

CIP-001-1 R2, R3 and R4 each have a “Medium” Violation Risk Factor (VRF). These violations apply to Covanta York as the Generator Operator succeeding in interest to Veolia York, as previously noted.

According to the Settlement Agreement, on February 28, 2009, while Veolia York was still registered as the Generator Operator at the York County Resource Recovery Center (Facility), ReliabilityFirst Compliance Staff conducted a Spot Check for CIP-001-1 – Sabotage Reporting. Based on the information and documentation provided, Veolia York was found compliant with CIP-001-1 R1.<sup>6</sup> Nevertheless, ReliabilityFirst Compliance Staff identified possible violations of CIP-001-1 R2, R3 and R4.

During the Spot Check, ReliabilityFirst Compliance Staff reviewed *Veolia ES York Safety Program SP 4 Preparedness, Prevention and Contingency Plan, Revision No. 4, 12/19/2007*, (Safety Program). The Safety Program deals with emergencies involving bomb threats, hazardous materials spills or release, medical emergencies, and natural disasters. Entities to be notified in the event of these types of emergencies are limited to first responders, the York County Solid Waste Authority, the Pennsylvania Department of Environmental Protection, and the local hospital.

ReliabilityFirst observed that within the Safety Program:

- No provision was made for the communication of information concerning sabotage events to appropriate parties in the Interconnection. Therefore, the ReliabilityFirst Compliance Staff found a violation of CIP-001-1 R2.
- No provision was made to provide its operating personnel with sabotage response guidelines, including personnel to contact, for reporting disturbances due to sabotage events. Therefore, the ReliabilityFirst Compliance Staff found a violation of CIP-001-1 R3.
- No provision was made for contacting the local FBI and no reporting procedures were developed as appropriate to their circumstances. Therefore, the ReliabilityFirst Compliance Staff found a violation of CIP-001-1 R4.

Based on these facts, ReliabilityFirst found that Veolia York failed to provide sufficient evidence that: (1) Veolia York had procedures in place for the communication of information concerning sabotage events to appropriate parties in the Interconnection as required by CIP-001-1 R2; (2) Veolia York provided its operating personnel with sabotage response guidelines,

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<sup>6</sup> Veolia York’s Safety Program, instead of using the term “sabotage events,” provided an illustrative list of the events that could occur. As “sabotage” is not a defined term, ReliabilityFirst determined that Veolia York’s approach was acceptable and that its Safety Program was compliant with CIP-001-1 R1.

including personnel to contact, for reporting disturbances due to sabotage events as required by CIP-001-1 R3; and (3) that Veolia York established communications contacts with local FBI officials and that it developed reporting procedures as appropriate to its circumstances as required by CIP-001-1 R4.

For the purposes of the Settlement Agreement, ReliabilityFirst considered Veolia York and Covanta York to be the same registered entity by virtue of the corporate succession described above. Ultimately, both ReliabilityFirst and Covanta York entered into the Settlement Agreement to resolve the instant violations even though Covanta York lacked functional control over the Facility at the time of the violations were discovered.

ReliabilityFirst determined that the duration for the violations was from August 22, 2007, the date the Facility was first registered on the NERC Compliance Registry, through October 2, 2009, when Covanta York took control of the Facility, and its *Sabotage Reporting Procedure*, dated September 27, 2009, took effect.

ReliabilityFirst determined that the violations of CIP-001-1 R2, R3 and R4 did not pose a serious or substantial risk to the reliability of the BPS, because of the size and nature of the registered entity. Covanta York burns trash to generate electricity to operate its facility. When the plant is operating, approximately 48 MW are generated; 18 MW are used to operate the facility while 30 MW are available for supply to the grid. In addition, ReliabilityFirst determined that the potential risk of the violations of CIP-001-1 R2, R3 and R4 to the BPS was mitigated, in part, by the following factors: (1) Covanta York was contractually obligated to notify required parties of any sabotage events, despite the emergency plan's omission of the specific phone numbers; and (2) Covanta York made the relevant phone numbers available in its control room, as though this was not formally documented in the emergency plan.

#### Regional Entity's Basis for Penalty

According to the Settlement Agreement, ReliabilityFirst assessed a penalty of seven thousand five hundred dollars (\$7,500) for the referenced violations. In reaching this determination, ReliabilityFirst considered the following factors: (1) these violations were Covanta York's first non-compliance with NERC Reliability Standards; (2) Covanta York was cooperative throughout the compliance enforcement process; (3) ReliabilityFirst determined that upon its registration as the Generator Operator, Covanta York took immediate action to attain compliance and reduce the risk to the reliability of the BPS; (4) the quality of Covanta York's compliance program;<sup>7</sup> (5) Covanta York's size and relative impact on the grid; (6) the violations did not pose a serious or substantial risk to the BPS, as discussed above; and (7) there were no other mitigating or aggravating factors or extenuating circumstances that would affect the assessed penalty.

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<sup>7</sup> Covanta York, as a subsidiary of Covanta Holding, is subject to Covanta Holding's NERC Compliance Program. This compliance program places primary compliance responsibilities on employees located at Covanta York but establishes mechanisms for reporting compliance concerns to individuals at Covanta Holding. These Covanta Holding employees have direct access to senior executives at Covanta Holding. This compliance program also establishes periodic, internal compliance reviews and the possibility of disciplinary action against employees found to have violated it.

Further, ReliabilityFirst concluded that no aggravating factors existed, and thus no upward adjustment of the penalty amount was warranted.

After consideration of the above factors, ReliabilityFirst determined that, in this instance, the penalty amount of seven thousand five hundred dollars (\$7,500) is appropriate and bears a reasonable relation to the seriousness and duration of the violations.

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

Veolia York's Mitigation Plan to address the violations of CIP-001-1 R2, R3 and R4 was submitted to ReliabilityFirst on April 23, 2009 with a proposed completion date of May 29, 2009. The Mitigation Plan was accepted by ReliabilityFirst on May 22, 2009<sup>9</sup> and approved by NERC on June 8, 2009. The Mitigation Plan for this violation is designated as MIT-08-1733 and was submitted as non-public information to FERC on June 8, 2009 in accordance with FERC orders.

Veolia York's Mitigation Plan required Veolia York to:

1. Include pertinent phone numbers in the emergency response plan by May 1, 2009;
2. Verify that phone numbers were valid by May 13, 2009;
3. Write an attachment to the emergency response plan that lists specific phone numbers required by CIP-001-1 by May 20, 2009; and
4. Perform an internal review of that attachment by May 27, 2009.

Veolia York certified on June 19, 2009 that the above Mitigation Plan requirements were completed on May 14, 2009. As evidence of completion of its Mitigation Plan, Veolia York submitted *Appendix E-10 Electrical Sabotage Reporting* to its Safety Program. On August 10, 2009, ReliabilityFirst reviewed the submitted evidence and found it to be insufficient to demonstrate compliance. Shortly thereafter, Covanta York's acquisition of Veolia York became effective and ReliabilityFirst notified the newly formed entity that a revised or new sabotage reporting procedure would be necessary for ReliabilityFirst to verify completion of the Mitigation Plan.

On October 20, 2009, Covanta York submitted *Covanta Sabotage Reporting Procedure, NERC-COV-002, Rev. 5* dated September 27, 2009 and effective October 2, 2009. To meet CIP-001-1 R2, Section 6 of this procedure covered the notification of sabotage events to the appropriate parties in the Interconnection per Attachment 1. In Attachment 1, the appropriate party for Covanta York was correctly identified as PJM Interconnection (PJM) and a specific phone number for PJM was listed. To meet CIP-001-1 R3, Section 6 of this procedure covered the response to sabotage events by Covanta employees. This included completing the *Attachment 2 – Sabotage Reporting Template* and disseminating the information to appropriate personnel per

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

<sup>9</sup> The Settlement Agreement (P 12) incorrectly states that ReliabilityFirst accepted the Mitigation Plan on May 18, 2009.

Section 3 of Attachment 2 which includes ReliabilityFirst, PJM, FBI, and local police. The specific phone numbers for these contacts were included in Attachment 1. Finally, to meet CIP-001-1 R4, Attachment 1 of this procedure contained the phone number for the local FBI office in Harrisburg, Pennsylvania.

On November 11, 2009, after ReliabilityFirst's review of Covanta York's submitted evidence, ReliabilityFirst verified that the Mitigation Plan was completed on October 2, 2009.

### **Statement Describing the Proposed Penalty, Sanction or Enforcement Action Imposed<sup>10</sup>**

#### **Basis for Determination**

Taking into consideration the Commission's direction in Order No. 693, the NERC Sanction Guidelines and the Commission's July 3, 2008 and October 26, 2009 Guidance Orders,<sup>11</sup> the NERC BOTCC reviewed the Settlement Agreement and supporting documentation on May 14, 2010. The NERC BOTCC approved the Settlement Agreement, including ReliabilityFirst's imposition of a financial penalty, assessing a penalty of seven thousand five hundred dollars (\$7,500) against Covanta York 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 violations at issue.

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

- (1) these violations constituted Covanta York's first occurrence of violations of the NERC Reliability Standards at issue in this Notice of Penalty;
- (2) ReliabilityFirst reported Covanta York was cooperative throughout the compliance enforcement process;
- (3) ReliabilityFirst determined that upon its registration as the Generator Operator, Covanta York took immediate action to attain compliance and reduce the risk to the reliability of the BPS, reflecting on Covanta York's;
- (4) the quality of Covanta York's compliance program, as described by RFC;
- (5) Covanta York's size and relative impact on the grid;
- (6) ReliabilityFirst determined that the violations did not pose a serious or substantial risk to the BPS, as discussed above; and
- (7) there were no other mitigating or aggravating factors or extenuating circumstances that would affect the assessed penalty.

For the foregoing reasons, the NERC BOTCC approves the Settlement Agreement and believes that the assessed penalty of seven thousand five hundred dollars (\$7,500) is appropriate for the violations and circumstances at issue, and is consistent with NERC's goal to promote and ensure reliability of the BPS.

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<sup>10</sup> See 18 C.F.R. § 39.7(d)(4).

<sup>11</sup> *North American Electric Reliability Corporation*, "Guidance Order on Reliability Notices of Penalty," 124 FERC ¶ 61,015 (2008); *North American Electric Reliability Corporation*, "Further Guidance Order on Reliability Notices of Penalty," 129 FERC ¶ 61,069 (2009)."



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) Settlement Agreement by and between ReliabilityFirst and Covanta York executed on December 18, 2009, included as Attachment a;
- b) Record documents for the violation of CIP-001-1 R2, R3 and R4, included as Attachment b:
  - 1. ReliabilityFirst's Summary for Possible Alleged Violation regarding the CIP-001-1 Sabotage Reporting Spot Check Report for Veolia York (Montenay York);
  - 2. Veolia York's Mitigation Plan designated as MIT-08-1733 submitted April 23, 2009;
  - 3. Veolia York's Certification of Completion of the Mitigation Plan dated June 19, 2009; and
  - 4. ReliabilityFirst's Verification of Completion of the Mitigation Plan dated November 11, 2009.

**A Form of Notice Suitable for Publication<sup>12</sup>**

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

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<sup>12</sup> See 18 C.F.R § 39.7(d)(6).

## Notices and Communications

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

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| <p>Gerald W. Cauley*<br/>President and Chief Executive Officer<br/>David N. Cook*<br/>Vice President and General Counsel<br/>North American Electric Reliability Corporation<br/>116-390 Village Boulevard<br/>Princeton, NJ 08540-5721<br/>(609) 452-8060<br/>(609) 452-9550 – facsimile<br/>gerry.cauley@nerc.net<br/>david.cook@nerc.net</p> <p>Harold E. Salsbury*<br/>Facility Manager<br/>Covanta York Renewable Energy, LLC<br/>2651 Blackbridge Road<br/>York, PA 17046<br/>(717) 843-2902<br/>hsalsbury@covantaenergy.com</p> <p>Steve Toth*<br/>Vice President, Maintenance/Asset Reliability<br/>Covanta Energy Corporation<br/>40 Lane Road<br/>Fairfield, NJ 07004<br/>(973) 882-4195<br/>(973) 882-4146 – facsimile<br/>stoth@covantaenergy.com</p> <p>Justin R. Boose*<br/>Contract Attorney<br/>Covanta Energy Corporation<br/>40 Lane Road<br/>Fairfield, NJ 07004<br/>(973) 882-7218<br/>(973) 882-7357 – facsimile<br/>jboose@covantaenergy.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*<br/>Assistant General Counsel<br/>Holly A. Hawkins*<br/>Attorney<br/>North American Electric Reliability Corporation<br/>1120 G Street, N.W.<br/>Suite 990<br/>Washington, DC 20005-3801<br/>(202) 393-3998<br/>(202) 393-3955 – facsimile<br/>rebecca.michael@nerc.net<br/>holly.hawkins@nerc.net</p> <p>Timothy R. Gallagher<br/>President &amp; CEO<br/>ReliabilityFirst Corporation<br/>320 Springside Drive, Suite 300<br/>Akron, OH 44333<br/>(330) 456-2488<br/>(330) 456-5390 – facsimile<br/>tim.gallagher@rfirst.org</p> <p>Raymond J. Palmieri*<br/>Vice President and Director of Compliance<br/>ReliabilityFirst Corporation<br/>320 Springside Drive, Suite 300<br/>Akron, OH 44333<br/>(330) 456-2488<br/>(330) 456-5408 – facsimile<br/>ray.palmieri@rfirst.org</p> <p>Michael D. Austin<br/>Compliance Enforcement Specialist<br/>ReliabilityFirst Corporation<br/>320 Springside Drive, Suite 300<br/>Akron, OH 44333<br/>(330) 456-2488<br/>(330) 456-5408 – facsimile<br/>mike.austin@rfirst.org</p> |
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## Conclusion

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

Respectfully submitted,

/s/ Rebecca J. Michael

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cc: Covanta York Renewable Energy, LLC  
ReliabilityFirst Corporation

Attachments

**Attachment a**

**Settlement Agreement by and between  
Reliability*First* and Covanta York executed on  
December 18, 2009**



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In re

| COVANTA YORK RENEWABLE )      | DOCKET NUMBER  |
|-------------------------------|----------------|
| ENERGY, LLC )                 |                |
|                               | ) RFC200900131 |
| NERC Registry ID # NCR10388 ) | ) RFC200900132 |
|                               | ) RFC200900133 |

**SETTLEMENT AGREEMENT  
OF  
RELIABILITYFIRST CORPORATION  
AND  
COVANTA YORK RENEWABLE ENERGY, LLC**

**I. Introduction**

1. ReliabilityFirst Corporation (“ReliabilityFirst”) and Covanta York Renewable Energy, LLC (“Covanta York”) enter into this Settlement Agreement (“Agreement”) to resolve all outstanding issues arising from a preliminary and non-public investigation resulting in ReliabilityFirst determination and findings, pursuant to the North American Electric Reliability Corporation (“NERC”) Rules of Procedure, of alleged violations of the NERC Reliability Standards: CIP-001-1, Requirement 2; CIP-001-1, Requirement 3 and CIP-001-1, Requirement 4.

**II. Stipulated Facts**

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

**A. Background**

3. Covanta York is a waste-to-energy contractor which operates the York County Resource Recovery Center (“Facility”), owned by the York County Solid Waste Authority, under a contractual agreement with the York County Solid Waste

Authority. Covanta York is engaged in providing environmentally sound solid waste disposal while generating electricity in York County, PA.

4. Covanta York operates the Facility which is a power generation facility designed to combust 1,344 tons per day of raw municipal solid waste at 4,500 Btu/lb to produce 38 MW of electrical power daily.
5. Covanta York is registered on the NERC Compliance Registry as a Generator Operator (“GOP”) in the ReliabilityFirst region with the NERC Registry Identification Number NCR10388 as of October 2, 2009. Prior to October 2, 2009, Veolia ES York, LLC (“Veolia York”), with the NERC Registry Identification Number NCR08064, was registered on the NERC Compliance Registry as the GOP at the Facility.<sup>1</sup> Due to a change in upstream ownership of the Facility, Veolia York was deregistered.<sup>2</sup>
6. The events addressed in this Agreement took place when Veolia York was listed on the NERC Compliance Registry as the GOP at the Facility. Nevertheless, ReliabilityFirst is asserting that Covanta York is responsible for addressing the alleged violations discussed herein by virtue of its corporate succession of Veolia York. In any event, as the currently registered GOP for the Facility, Covanta York is subject to compliance with NERC Reliability Standards CIP-001-1, Requirement 2; CIP-001-1, Requirement 3; and CIP-001-1, Requirement 4.

**B. Alleged Violation of CIP-001-1, Requirement 2 – RFC200900131; Requirement 3 – RFC200900132; and Requirement 4 – RFC200900133**

7. NERC Reliability Standard CIP-001-1 “*Sabotage Reporting*”, Requirement 2 states, “Each Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, and Load Serving Entity shall have procedures for the communication of information concerning sabotage events to appropriate parties in the Interconnection.”
8. NERC Reliability Standard CIP-001-1 “*Sabotage Reporting*”, Requirement 3 states “Each Reliability Coordinator, Balancing Authority, Transmission

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<sup>1</sup> Veolia ES York, LLC was formerly known as Montenay York Resource Energy Systems, LLC. On July 24, 2009, NERC notified Veolia ES York, LLC that, per its request, that name would appear in the NERC Compliance Registry going forward.

<sup>2</sup> Covanta Holding Corporation (“Covanta Holding”) purchased certain waste-to-energy businesses from Veolia Environmental Services North America Corp. See Form 8-K filed by Covanta Holding with the Securities and Exchange Commission on August 24, 2009. Veolia York was one of the purchased businesses. As part of that transaction, the name of the entity was changed from “Veolia ES York, LLC” to “Covanta York Renewable Energy LLC.”

Operator, Generator Operator, and Load Serving Entity shall provide its operating personnel with sabotage response guidelines, including personnel to contact, for reporting disturbances due to sabotage events.”

9. NERC Reliability Standard CIP-001-1 “*Sabotage Reporting*”, Requirement 4 states “Each Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, and Load Serving Entity shall establish communications contacts, as applicable, with local Federal Bureau of Investigation (“FBI”) or Royal Canadian Mounted Police (“RCMP”) officials and develop reporting procedures as appropriate to their circumstances.”
10. On February 28, 2009, Reliability*First* Compliance Staff conducted a Spot Check for CIP-001-1 Sabotage Reporting as of February 27, 2009. Based on the information and documentation provided, Veolia York was found compliant with CIP-001-1, Requirement 1. Veolia York was found to have three (3) Possible Alleged Violations regarding CIP-001-1, Requirement 2; CIP-001-1, Requirement 3; and CIP-001-1, Requirement 4, respectively.
11. During the Spot Check, Reliability*First* Compliance Staff reviewed “Veolia ES York Safety Program SP 4 Preparedness, Prevention and Contingency Plan, Revision No. 4, 12/19/2007” (“Safety Program”).

The Safety Program deals with emergencies involving hazardous materials spills or release, medical emergencies, and natural disasters. Entities to be notified in the event of these types of emergencies are limited to first responders, the York County Solid Waste Authority, the Pennsylvania Department of Environmental Protection, and the local hospital. Reliability*First* observed that:

- No provision was made for the communication of information concerning sabotage events to appropriate parties in the Interconnection. Therefore, the Reliability*First* Compliance Staff found a Possible Alleged Violation for CIP-001-1, Requirement 2.
- No provision was made to provide its operating personnel with sabotage response guidelines, including personnel to contact, for reporting disturbances due to sabotage events. Therefore, the Reliability*First* Compliance Staff found a Possible Alleged Violation for CIP-001-1, Requirement 3.
- No provision was made for contacting the local FBI and no reporting procedures were developed as appropriate to their circumstances. Therefore, the Reliability*First* Compliance Staff found a Possible Alleged Violation for CIP-001-1, Requirement 4.

12. On April 23, 2009, Veolia York submitted a Mitigation Plan with a proposed completion date of not later than May 29, 2009. ReliabilityFirst reviewed the Mitigation Plan for acceptance upon receipt and accepted the proposed Mitigation Plan on May 18, 2009. Subsequently on June 8, 2009, NERC approved the Mitigation Plan and submitted the same to the Federal Energy Regulatory Commission (the “Commission” or “FERC”) as confidential, non public information, in accordance with FERC’s rules and orders. On June 19, 2009, Veolia York submitted a Certification of Mitigation Plan Completion and Evidence of Mitigation Plan Completion to ReliabilityFirst.
13. ReliabilityFirst alleges that Veolia York failed to provide sufficient evidence that it had procedures in place for the communication of information concerning sabotage events to appropriate parties in the Interconnection as required by NERC Standard CIP-001-1, Requirement 2.
14. ReliabilityFirst alleges that Veolia York failed to provide sufficient evidence that it provided its operating personnel with sabotage response guidelines, including personnel to contact, for reporting disturbances due to sabotage events as required by NERC Standard CIP-001-1, Requirement 3.
15. ReliabilityFirst alleges that Veolia York failed to provide sufficient evidence that it established communications contacts with local FBI officials and failed to provide sufficient evidence that it developed reporting procedures as appropriate to its circumstances as required by CIP-001-1, Requirement 4.
16. For the purposes of this Agreement, ReliabilityFirst considers Veolia York and Covanta York to be the same registered entity by virtue of the corporate succession. Therefore, ReliabilityFirst considers Covanta York to be the appropriate party to this Agreement even though Covanta York lacked functional control over the Facility at the time of the alleged violations.

### **III. PARTIES’ SEPARATE REPRESENTATIONS**

#### **A. Statement of ReliabilityFirst and Summary of Findings**

17. ReliabilityFirst considers this Agreement as the resolution of all issues in connection with the above captioned docket number and to bind Covanta York in its commitment to perform actions hereafter enumerated and listed as conditions for this Agreement.
18. CIP-001-1, Requirement 2 has a Violation Risk Factor (“VRF”) of Medium as evidenced by the VRF Matrix. CIP-001-1, Requirement 3 has a VRF of Medium as evidenced by the VRF Matrix. CIP-001-1, Requirement 4 has a VRF of Medium as evidenced by the VRF Matrix.



19. ReliabilityFirst has favorably considered the cooperation of Covanta York in connection with the investigation and mitigating actions set forth herein. Furthermore, ReliabilityFirst considered the presence and quality of Covanta York's compliance program, in determining the proposed settlement. Specifically, ReliabilityFirst considered Covanta York's willingness to bring this matter to a close in an expeditious manner, despite the fact that Covanta York did not have functional control of the Facility at the time the alleged violations occurred.
20. ReliabilityFirst agrees that this Agreement is in the best interest of the parties and in the best interest of bulk power system reliability.

#### **B. Statement of Covanta York Renewable Energy, LLC**

21. Covanta York neither admits nor denies that the allegations set forth herein constitute violations of CIP-001-1, Requirement 2, Requirement 3, and Requirement 4.
22. Notwithstanding that it was not in functional control of the Facility at the time the alleged violations occurred, Covanta York has agreed to enter into this Settlement Agreement with ReliabilityFirst to effectuate a complete and final resolution of the issues set forth herein. Covanta York 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 CIP-001-1, Requirement 2 – RFC200900131**

23. On April 23, 2009, Veolia York submitted to ReliabilityFirst a single Mitigation Plan (Mitigation Plan Tracking # MIT-08-1733, *see* Attachment a) to address the alleged violations of CIP-001-1, Requirement 2, Requirement 3, and Requirement 4. On May 22, 2009, ReliabilityFirst accepted the Mitigation Plan. On May 29, 2009, ReliabilityFirst submitted the Mitigation Plan to NERC. NERC approved the Mitigation Plan on June 8, 2009 and submitted the Mitigation Plan to FERC as confidential, nonpublic information on June 8, 2009. On June 19, 2009, Veolia York submitted Certification of Mitigation Plan Completion (*see* Attachment b). ReliabilityFirst accepted the Certification of Mitigation Plan Completion from Veolia York contingent upon ReliabilityFirst verification that the violation had been fully mitigated and Covanta York was in compliance with CIP-001-1, Requirement 2, Requirement 3, and Requirement 4.
24. In the Mitigation Plan, Veolia York committed to prepare an attachment to its Emergency Plan that would list the specific phone numbers required by CIP-001-1, Requirement 2, Requirement 3, and Requirement 4. Prior to Covanta York's

registration on the NERC Compliance Registry, ReliabilityFirst did not have sufficient evidence to verify completion of this action.

25. On November 11, 2009, ReliabilityFirst, having ultimately received an Emergency Plan from Covanta York dated September 27, 2009 and including the necessary phone numbers, verified that the Mitigation Plan was completed in accordance with its terms (*see* Attachment c, Summary and Review of Evidence of Mitigation Plan Completion, MIT-08-1733).
26. This September 27, 2009 document, titled "Sabotage Reporting Procedure," demonstrates that upon its registration as the GOP, Covanta York took immediate action to attain compliance and reduce the risk to the reliability of the Bulk Power System. Contact information was compiled regarding the communication of information concerning sabotage events to appropriate parties in the Interconnection, contact information was compiled for reporting disturbances due to sabotage events, and communications contacts were established with the FBI. Since Covanta York was not registered until October 2, 2009, and the document demonstrating compliance was dated September 27, 2009, Covanta York was deemed compliant to CIP-001-1 upon its registration on October 2, 2009.

#### **D. Sanctions**

27. Covanta York shall pay a monetary penalty of \$7,500 to ReliabilityFirst. ReliabilityFirst will provide Covanta York with an invoice within twenty days after the Agreement becomes effective, either through approval by the FERC or by operation of law, and ReliabilityFirst shall notify NERC if the payment is not received.
28. Failure to make a timely penalty payment or to comply with any of the terms and conditions agreed to herein shall be deemed to be either the same alleged violations that initiated this Agreement and/or additional violation(s) and may subject Covanta York to new or additional enforcement, penalty or sanction actions in accordance with the NERC Rules of Procedure.
29. If Covanta York 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. § 35.19(a)(2)(iii) from the date that payment is due, in addition to the penalty specified above.

#### **V. ADDITIONAL TERMS**

30. The signatories to the Agreement agree that they enter into the Agreement voluntarily and that, other than the recitations set forth herein, no tender, offer or promise of any kind by any member, employee, officer, director, agent or

representative of ReliabilityFirst or Covanta York has been made to induce the signatories or any other party to enter into the Agreement.

31. ReliabilityFirst and Covanta York shall report the terms of all settlements of compliance matters to NERC. NERC will review the Agreement for the purpose of evaluating its consistency with other Agreements entered into for similar violations or under other, similar circumstances. Based on this review, NERC will either approve the Agreement or reject the Agreement and notify ReliabilityFirst and Covanta York of changes to the Agreement that would result in approval. If NERC rejects the Agreement, NERC will provide specific written reasons for such rejection and ReliabilityFirst will attempt to negotiate a revised Agreement with Covanta York including any changes to the Agreement specified by NERC. If a settlement cannot be reached, the enforcement process shall continue to conclusion. If NERC approves the Agreement, NERC will (i) report the approved Agreement to the Commission for the Commission's review and approval by order or operation of law and (ii) publicly post the alleged violation and the terms provided for in the settlement.
32. This Agreement shall become effective upon the Commission's approval of the Agreement by order or operation of law as submitted to it or as modified in a manner acceptable to the parties.
33. Covanta York agrees that this Agreement, when approved by NERC and the Commission, shall represent a final settlement of all matters set forth herein and Covanta York waives its right to further hearings and appeal, unless and only to the extent that Covanta York contends that any NERC or Commission action on the Agreement contains one or more material modifications to the Agreement.
34. ReliabilityFirst reserves all rights to initiate enforcement, penalty or sanction actions against Covanta York in accordance with the NERC Rules of Procedure in the event that Covanta York fails to comply with the mitigation plan and compliance program agreed to in this Agreement. In the event Covanta York fails to comply with any of the stipulations, remedies, sanctions or additional terms, as set forth in this Agreement, ReliabilityFirst may initiate enforcement, penalty, or sanction actions against Covanta York to the maximum extent allowed by the NERC Rules of Procedure, up to the maximum statutorily allowed penalty. Covanta York shall retain all rights to defend against such enforcement actions, also according to the NERC Rules of Procedure.
35. Covanta York 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,

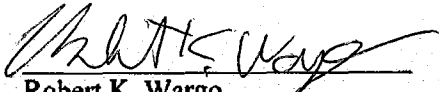
in accordance with the NERC Sanction Guidelines and applicable Commission orders and policy statements.<sup>3</sup> Such use may be in any enforcement action or compliance proceeding under taken by NERC and/or any Regional Entity; provided however, that Covanta York does not consent to the use of the specific acts set forth in this Agreement as the sole basis for any other action or proceeding brought by NERC and/or ReliabilityFirst, nor does Covanta York consent to the use of this Agreement by any other party in any other action or proceeding.

36. 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.
37. 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.
38. The Agreement may be signed in counterparts.
39. The Agreement is executed in duplicate, each of which so executed shall be deemed to be an original.

---

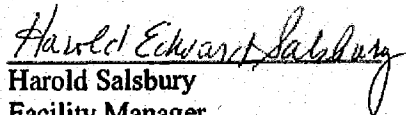
<sup>3</sup> In this regard, ReliabilityFirst acknowledges that Covanta York did not have functional control over the Facility at the time the alleged violations occurred, which should be considered as a factor in assessing the company's history of violations.

Agreed to and accepted:



Robert K. Wargo  
Manager of Compliance Enforcement  
ReliabilityFirst Corporation

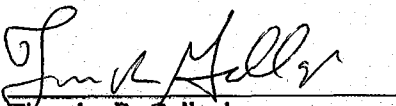
12/18/2009  
Date



Harold Salisbury  
Facility Manager  
Covanta York Renewable Energy, LLC  
2651 Blackbridge Road  
York, PA 17046

12-18-09  
Date

Approved by:



Timothy R. Gallagher  
President and Chief Executive Officer  
ReliabilityFirst Corporation

12-18-09  
Date

**Attachment b**

**Record documents for the violation of CIP-001-1  
R2, R3 and R4:**

- a. ReliabilityFirst's Summary for PAV regarding  
CIP-001-1 Sabotage Reporting Spot Check  
Report for Veolia York (Montenay York) dated  
February 28, 2009;**
- 2. Veolia York's Mitigation Plan designated as  
MIT-08-1733 submitted April 23, 2009;**
- 3. Veolia York's Certification of Completion  
of the Mitigation Plan dated June 19, 2009;  
and**
- 4. ReliabilityFirst's Verification of Completion  
of the Mitigation Plan dated November 11,  
2009.**





## ***Summary for Possible Alleged Violation (PAV)***

---

**Registered Entity:** Montenay York Resource Energy Systems, LLC

**NERC ID#:** NERC ID: 08064

**Compliance Monitoring Process:** Spot Checking

**Standard and Requirement:** CIP-001-1, R2

**Registered Function(s) in Violation:** Generator Operator

**Initial PAV Date:** 5/8/2009

**Date for Determination of Penalty/Sanction:** 12/12/2008

**Violation Risk Factor:** VRF - Medium

**Violation Severity Level:** VSL - Level 4

**Violation Reported By:** Audit Team

---

**Basis for the PAV:** CIP-001-1, R2 Each Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, and Load Serving Entity shall have procedures for the communication of information concerning sabotage events to appropriate parties in the Interconnection.

**Facts and Evidence pertaining to the PAV:** The audit team found Montenay York Resource Energy Systems, LLC has a possible alleged violation with this requirement during the audit period. Evidence did not include communication of sabotage events to appropriate parties in the Interconnection such as LCC, BA, TOP and RC.

**Impact to Bulk Electrical System (BES):** Severe

- **Provide Explanation for Impact to BES:** The responsible entity failed to have a procedure for communicating information concerning sabotage events to appropriate parties in the Interconnection.



## *Summary for Possible Alleged Violation (PAV)*

---

**Registered Entity:** Montenay York Resource Energy Systems, LLC

**NERC ID#:** NERC ID: 08064

**Compliance Monitoring Process:** Spot Checking

**Standard and Requirement:** CIP-001-1, R3

**Registered Function(s) in Violation:** Generator Operator

**Initial PAV Date:** 5/8/2009

**Date for Determination of Penalty/Sanction:** 12/12/2008

**Violation Risk Factor:** VRF - Medium

**Violation Severity Level:** VSL - Level 4

**Violation Reported By:** Audit Team

---

**Basis for the PAV: CIP-001-1, R3** Each Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, and Load Serving Entity shall provide its operating personnel with sabotage response guidelines, including personnel to contact, for reporting disturbances due to sabotage events.

**Facts and Evidence pertaining to the PAV:** The audit team found Montenay York Resource Energy Systems, LLC has a possible alleged violation with this requirement during the audit period. Evidence did not include a provision to provide its operating personnel with sabotage response guidelines, including personnel to contact, for reporting disturbances due to sabotage events.

**Impact to Bulk Electrical System (BES): Severe**

- **Provide Explanation for Impact to BES:** The responsible entity failed to have a procedure for communicating information concerning sabotage events to appropriate parties in the Interconnection.



## *Summary for Possible Alleged Violation (PAV)*

---

**Registered Entity:** Montenay York Resource Energy Systems, LLC

**NERC ID#:** NERC ID: 08064

**Compliance Monitoring Process:** Spot Checking

**Standard and Requirement:** CIP-001-1, R4

**Registered Function(s) in Violation:** Generator Operator

**Initial PAV Date:** 5/8/2009

**Date for Determination of Penalty/Sanction:** 12/12/2008

**Violation Risk Factor:** VRF - Medium

**Violation Severity Level:** VSL - Level 4

**Violation Reported By:** Audit Team

---

**Basis for the PAV: CIP-001-1, R4** Each Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, and Load Serving Entity shall establish communications contacts, as applicable, with local Federal Bureau of Investigation (FBI) or Royal Canadian Mounted Police (RCMP) officials and develop reporting procedures as appropriate to their circumstances.

**Facts and Evidence pertaining to the PAV:** The audit team found Montenay York Resource Energy Systems, LLC has a possible alleged violation with this requirement during the audit period. Evidence did not include a provision for contacting the local Federal Bureau of Investigation (FBI) or the JTTF.

**Impact to Bulk Electrical System (BES): Severe**

- **Provide Explanation for Impact to BES:** The responsible entity failed to establish communications contacts, as applicable, with local Federal Bureau of Investigation (FBI) or Royal Canadian Mounted Police (RCMP) officials, nor developed a reporting procedure.

# **Attachment a**

Mitigation Plan (MIT-08-1733)

Submitted April 23, 2009





## Mitigation Plan Submittal Form

Date this Mitigation Plan is being submitted: 4/23/2009

### 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: Montenay York Resource Energy Systems, LLC

Company Address: 2651 Blackbridge Road, York, PA 17406

NERC Compliance Registry ID: NCR # 08064

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

Name: Sterling Tate

Title: Operations Manager

Email: state@veoliaes.com

Phone: 717-843-2902

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## 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<br>Violation ID<br># | Reliability<br>Standard | Requirement<br>Number | Violation<br>Risk Factor | Alleged or<br>Confirmed<br>Violation Date <sup>(*)</sup> | Method of<br>Detection ( <i>e.g.</i> ,<br>Audit, Self-report,<br>Investigation) |
|---------------------------|-------------------------|-----------------------|--------------------------|--|---|
|                           | CIP-001-1               | R2                    |                          | February 27,<br>2009                                     | Audit   |
|                           | CIP-001-1               | R3                    |                          | February 27,<br>2009                                     | Audit   |
|                           | CIP-001-1               | R4                    |                          | February 27,<br>2009                                     | 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.

Phone numbers were not included in a Emergency Response Plan

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.

The Emergency Plan did not include specific phone numbers even though routine practice is to notify the parties per contractual obligations.

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## 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.

Prepare an attachment to the Emergency Plan that lists the specific phone numbers required by CIP-001-1 R2, R3, and R4.

### 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.

May 29, 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*<br>(shall not be more than 3 months apart) |
|-------------------------------------|---|
| Gather Phone Numbers                | May 1, 2009   |
| Verify that phone numbers are valid | May 13, 2009  |
| Write Attachment                    | May 20, 2009  |
| Internal review of Attachment       | May 27, 2009  |

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

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## **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.

No risks are identified to the BPS. The phone numbers are available for the control room operators to use but are not formally included in an emergency plan.

### **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.

The Emergency Plan is routinely reviewed for accuracy and any changes are documented. The Plan is then updated.

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## 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 [Title] of [Organization].
  2. I am qualified to sign this Mitigation Plan on behalf of [Organization].
  3. I have read and am familiar with the contents of this Mitigation Plan.
  4. [Organization] agrees to comply with, this Mitigation Plan, including the timetable completion date, as accepted by ReliabilityFirst and approved by NERC.

Authorized Individual Signature

A handwritten signature in black ink, appearing to read "Sterling Tate", written over a horizontal line.

Name (Print):

Sterling Tate

Title:

Operations Manager

Date:

4/23/2009

## 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](mailto: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.

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## Attachment A – Compliance Notices & Mitigation Plan Requirements

- I. Section 6.2 of the CMEP<sup>1</sup> sets forth the information that must be included in a Mitigation Plan. The Mitigation Plan must include:
  - (1) The Registered Entity's point of contact for the Mitigation Plan, who shall be a person (i) responsible for filing the Mitigation Plan, (ii) technically knowledgeable regarding the Mitigation Plan, and (iii) authorized and competent to respond to questions regarding the status of the Mitigation Plan.
  - (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

<sup>1</sup> "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.



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mitigation plan is required to address Alleged or Confirmed violations with respect to each additional Reliability Standard, as applicable.

- V. If the Mitigation Plan is accepted by ReliabilityFirst and approved by NERC, a copy of this Mitigation Plan will be provided to the Federal Energy Regulatory Commission in accordance with applicable Commission rules, regulations and orders.
- VI. ReliabilityFirst or NERC may reject Mitigation Plans that they determine to be incomplete or inadequate.
- VII. Remedial action directives also may be issued as necessary to ensure reliability of the BPS.


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## 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   | Raymond J. Palmieri |  |        |
| Senior Consultant | Vice President and  |  | 1/2/08 |
| Compliance        | Director            |  |        |
|                   | Compliance          |  |        |

## 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 <a href="mailto:compliance@rfirst.org">compliance@rfirst.org</a> to <a href="mailto:mitigationplan@rfirst.org">mitigationplan@rfirst.org</a> | 7/11/08 |

# **Attachment b**

## **Certification of Mitigation Plan Completion**

Submitted June 19, 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: Montenay York Resource Energy Systems, LLC

NERC Registry ID: NCR08064

Date of Submittal of Certification: 6/19/2009

NERC Violation ID No(s): RFC200900131, RFC200900132 and RFC200900133

Reliability Standard and the Requirement(s) of which a violation was mitigated: CIP-001-1 R2, R3 and R4

Date Mitigation Plan was scheduled to be completed per accepted Mitigation Plan: 5/29/2009

Date Mitigation Plan was actually completed: 5/14/2009

Additional Comments (or List of Documents Attached): Please attachment SP-4 Preparedness Prevention and Contingency Plan pages SP4-46, SP4-76 and SP4-77 (Highlighted in red)

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: Sterling Tate

Title: Operations Manager

Email: sterling.tate@veoliaes.com

Phone: (717) 843-2902 ext 142

Authorized Signature

A handwritten signature in black ink, appearing to read "Sterling R. Tate", written over a horizontal line.

Date

6/19/09



---

Please direct completed forms or any questions regarding completion of this form to the Reliability*First* Compliance e-mail address [mitigationplan@rfirst.org](mailto: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 Reliability*First* Compliance Staff member is available for questions regarding the use of this form. Please see the contact list posted on the Reliability*First* 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<br>Manager of<br>Compliance<br>Enforcement | Raymond J. Palmieri<br>Vice President and<br>Director<br>Compliance | <i>Raymond J. Palmieri</i> | 1/5/2009 |

## DOCUMENT CHANGE/REVISION HISTORY

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

# **Attachment c**

## **Summary and Review of Mitigation Plan Completion**

**Dated November 11, 2009**

November 11, 2009

**Summary and Review of Evidence of Mitigation Plan Completion**

|                      |                            |
|----------------------|----------------------------|
| NERC Violation ID #: | RFC200900131               |
|                      | RFC200900132               |
|                      | RFC200900133               |
| NERC Plan ID:        | MIT-08-1733                |
| Registered Entity;   | Covanta                    |
|                      | York Renewable Energy, LLC |
| NERC Registry ID:    | NCR10388                   |
| Standard:            | CIP-001-1                  |
| Requirement:         | 2,3 & 4                    |
| Status:              | Compliant                  |

On February 28, 2009, ReliabilityFirst Compliance Staff performed a Spot Check of Montenay York Resource Energy Systems, LLC ("Montenay York") to determine their compliance to CIP-001-1. The Audit Team reported a Possible Violation with NERC Reliability Standard CIP-001-1, Requirement 2; CIP-001-1, Requirement 3; and CIP-001-1, Requirement 4. Montenay York submitted a Proposed Mitigation Plan to ReliabilityFirst on April 23, 2009, whereby stating Montenay York would complete all mitigating actions on or about May 29, 2009. This Mitigation Plan, designated MIT-08-1733, was accepted by ReliabilityFirst on May 22, 2009 and approved by NERC on June 8, 2009.

**Review Process:**

On June 19, 2009, Montenay York certified that Mitigation Plan for CIP-001-1, Requirements 2, 3, and 4, was completed as of May 14, 2009. ReliabilityFirst requested and received evidence of completion for actions taken by Montenay York as specified in the Mitigation Plan. ReliabilityFirst performed an in depth review of the information provided to verify that all actions specified in the Mitigation Plan were successfully completed. ReliabilityFirst found that the information provided in the form of "*Veolia Environmental Services York, LLC ("Veolia ES York") (fka Montenay York) Safety Program SP 4 Preparedness, Prevention and Contingency Plan, Revision No. 4, 12/19/2007*", did not completely satisfy CIP-001-1, Requirements 2, 3, and 4.

ReliabilityFirst, during a telephone conversation with Veolia ES York on August 10, 2009, reviewed "*Veolia Environmental Services York, LLC Safety Program SP 4 Preparedness, Prevention and Contingency Plan, Revision No. 4, 12/19/2007, Appendix E-10 Electrical Sabotage Reporting*" with Veolia ES York, and recommended a revision to "*Appendix E-10 Electrical Sabotage Reporting*" that would include notification to appropriate in the Interconnection, provision of sabotage response guidelines to operating personnel, and developing reporting procedures with the FBI. After the telephone conversation, and also on August 10, 2009, ReliabilityFirst sent to Veolia ES York, via



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email, Reliability Standard Audit Worksheet (RSAW) as a guide for Veolia to follow to become compliant with CIP-001-1, Requirements 2, 3, and 4.

On August 18, 2009, Covanta York purchased Veolia ES York. On September 16, 2009, ReliabilityFirst notified Covanta York, in an email, that revisions to “*Veolia Environmental Services York, LLC Safety Program SP 4 Preparedness, Prevention and Contingency Plan, Revision No. 4, 12/19/2007, Appendix E-10 Electrical Sabotage Reporting*” or a different Sabotage Reporting Procedure would be necessary for ReliabilityFirst to verify completion of the Mitigation Plan and find Covanta York in compliance with the standard. On October 20, 2009, Covanta York submitted to ReliabilityFirst, “*Covanta Sabotage Reporting Procedure, NERC-COV-002, Rev. 5*”.

**CIP-001-1, Requirement 2** states: “Each Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, and Load Serving Entity shall have procedures for the communication of information concerning sabotage events to appropriate parties in the Interconnection.”

**Evidence Submitted:**

**Requirement 2:** Covanta submitted their “Covanta Sabotage Reporting Procedure NERC-COV-002 Rev. 5” document which is dated September 27, 2009. Section 6 of this procedure covers the notification of sabotage events to the appropriate parties in the Interconnection per Attachment 1. In Attachment 1, the appropriate party for York is correctly identified as PJM and a specific phone number for PJM is listed.

**CIP-001-1, Requirement 3** states: “Each Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, and Load Serving Entity shall provide its operating personnel with sabotage response guidelines, including personnel to contact, for reporting disturbances due to sabotage events.”

**Evidence Submitted:**

**Requirement 3:** Covanta submitted their “Covanta Sabotage Reporting Procedure NERC-COV-002 Rev. 5” document which is dated September 27, 2009. Section 6 of this procedure covers the response to sabotage events by Covanta employees. This includes completing the “Attachment 2 – Sabotage Reporting Template” and disseminating the information to the appropriate personnel per Section 3 of Attachment 2 which includes ReliabilityFirst, PJM, FBI, and Local Police. The specific phone numbers for these contacts are found in Attachment 1.

**CIP-001-1, Requirement 4** states: “Each Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, and Load Serving Entity shall establish communications contacts, as applicable, with local Federal Bureau of Investigation (FBI)

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or Royal Canadian Mounted Police (RCMP) officials and develop reporting procedures as appropriate to their circumstances.”

**Evidence Submitted:**

**Requirement 4:** Covanta submitted their “Covanta Sabotage Reporting Procedure NERC-COV-002 Rev. 5” document which is dated September 27, 2009. Attachment 1 of this procedure contains the phone number for the Local FBI office in Harrisburg, PA. This phone number was verified via the FBI website by ReliabilityFirst.

**Review Results:**

ReliabilityFirst Corporation reviewed the evidence the Covanta York submitted in support of its Certification of Completion. On November 11, 2009, ReliabilityFirst verified that the Mitigation Plan was completed in accordance with its terms and has therefore deemed Covanta York compliant to the aforementioned NERC Reliability Standard.

Respectfully Submitted,

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

Robert K. Wargo  
Manager of Compliance Enforcement  
ReliabilityFirst Corporation

## **Attachment c**

### **Notice of Filing**

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Covanta York Renewable Energy, LLC

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

NOTICE OF FILING  
July 6, 2010

Take notice that on July 6, 2010, the North American Electric Reliability Corporation (NERC) filed a Notice of Penalty regarding Covanta York Renewable Energy, LLC 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](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: [BLANK]

Kimberly D. Bose,  
Secretary