



NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

PRIVILEGED AND CONFIDENTIAL INFORMATION  
HAS BEEN REMOVED FROM THIS PUBLIC VERSION

March 30, 2011

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

**Re: NERC Abbreviated Notice of Penalty regarding Unidentified Registered Entity,  
FERC Docket No. NP11-\_\_-000**

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Abbreviated Notice of Penalty (NOP) regarding Unidentified Registered Entity (URE), with information and details regarding the nature and resolution of the violation<sup>1</sup> discussed in detail in the Settlement Agreement (Attachment a) and the Disposition Document (Attachment b), 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>2</sup>

This NOP is being filed with the Commission because the Western Electricity Coordinating Council (WECC) and URE have entered into a Settlement Agreement to resolve all outstanding issues arising from WECC's determination and findings of the enforceable violation of CIP-003-1 Requirement (R) 2. According to the Settlement Agreement, URE stipulates to the facts of the violation and has agreed to the assessed penalty of two-thousand dollars (\$2,000), 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 violation identified as NERC Violation Tracking Identification Numbers WECC200901705 is being filed in accordance with the NERC Rules of Procedure and the CMEP.

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<sup>1</sup> For purposes of this document, each violation at issue is described as a "violation," regardless of its procedural posture and whether it was a possible, alleged or confirmed violation.

<sup>2</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 (2011). *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).

### Statement of Findings Underlying the Violation

This NOP incorporates the findings and justifications set forth in the Settlement Agreement executed on July 6, 2010, by and between WECC and URE. The details of the findings and the basis for the penalty are set forth in the Disposition Document. This NOP 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.

NOC ID	NERC Violation ID	Reliability Std.	Req. (R)	VRF	Duration <sup>3</sup>	Total Penalty (\$)
NOC-597	WECC200901705	CIP-003-1	2	Lower <sup>4</sup>	12/31/08 – 11/30/09	2,000

The text of the Reliability Standard at issue and further information on the subject violation is set forth in the Disposition Document.

#### CIP-003-1 R2 - OVERVIEW

WECC determined that URE did not comply with CIP-003-1 R2 because URE did not assign a senior manager with overall responsibility for leading and managing URE's implementation and adherence to CIP-002 through CIP-009 according to the subscribed timeline of the Implementation Plan for Cyber Security Standards.

### Statement Describing the Assessed Penalty, Sanction or Enforcement Action Imposed<sup>5</sup>

#### Basis for Determination

Taking into consideration the Commission's direction in Order No. 693, the NERC Sanction Guidelines, the Commission's July 3, 2008, October 26, 2009 and August 27, 2010 Guidance Orders,<sup>6</sup> the NERC BOTCC reviewed the Settlement Agreement and supporting documentation on December 10, 2010. The NERC BOTCC approved the Settlement Agreement, including WECC's assessment of a two-thousand dollar (\$2,000) financial penalty against URE 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

<sup>3</sup> The Mitigation Plan incorrectly states that the violation duration was from December 31, 2008 to June 10, 2009.

<sup>4</sup> When NERC filed Violation Risk Factors (VRF) it originally assigned CIP-003-1 R2 a Lower VRF. The Commission approved the VRF as filed; however, it directed NERC to submit modifications. NERC submitted the modified Medium VRF and on January 27, 2009, the Commission approved the modified Medium VRF. Therefore, the Lower VRF for CIP-003-1 R2 was in effect from June 18, 2007 until January 27, 2009 when the Medium VRF became effective. CIP-003-1 R2.1, R2.2 and R2.3 have Lower VRFs. The Mitigation Plan incorrectly states that the violation had a Medium VRF.

<sup>5</sup> See 18 C.F.R. § 39.7(d)(4).

<sup>6</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); *North American Electric Reliability Corporation*, "Notice of No Further Review and Guidance Order," 132 FERC ¶ 61,182 (2010).

requirements of the Commission-approved Reliability Standards and the underlying facts and circumstances of the violation at issue.

In reaching this determination, the NERC BOTCC considered the following factors:<sup>7</sup>

1. the violation constituted URE's first violation of the subject NERC Reliability Standards;
2. WECC reported that URE was cooperative throughout the compliance enforcement process;
3. there was no evidence of any attempt to conceal a violation nor evidence of intent to do so;
4. WECC determined that the violation did not pose a serious or substantial risk to the reliability of the bulk power system (BPS), as discussed in the Disposition Document; and
5. WECC reported that there were no other mitigating or aggravating factors or extenuating circumstances that would affect the assessed penalty.

For the foregoing reasons, the NERC BOTCC approved the Settlement Agreement. The NERC BOTCC believes that the assessed penalty of two-thousand dollars (\$2,000) is appropriate for the violation and circumstances at issue, and is consistent with NERC's goal to promote and ensure reliability of the BPS.

Pursuant to 18 C.F.R. § 39.7(e), the penalty will be effective upon expiration of the 30 day period following the filing of this NOP with FERC, or, if FERC decides to review the penalty, upon final determination by FERC.

### **Request for Confidential Treatment**

Information in and certain attachments to the instant NOP include confidential information as defined by the Commission's regulations at 18 C.F.R. Part 388 and orders, as well as NERC Rules of Procedure including the NERC CMEP Appendix 4C to the Rules of Procedure. This includes non-public information related to certain Reliability Standard violations, certain Regional Entity investigative files, Registered Entity sensitive business information and confidential information regarding critical energy infrastructure.

In accordance with the Commission's Rules of Practice and Procedure, 18 C.F.R. § 388.112, a non-public version of the information redacted from the public filing is being provided under separate cover.

Because certain of the attached documents are deemed confidential by NERC, Registered Entities and Regional Entities, NERC requests that the confidential, non-public information be provided special treatment in accordance with the above regulation.

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<sup>7</sup> URE did not receive credit for having a compliance program because it was not reviewed by WECC.

**Attachments to be included as Part of this Notice of Penalty**

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

- a) Settlement Agreement by and between WECC and URE executed July 6, 2010, included as Attachment a;
- b) Disposition Document, included as Attachment b;
- c) URE's Self-Certification for CIP-003-1 R2, included as Attachment c;
- d) URE's Mitigation Plan MIT-09-2819 for CIP-003-1 R2 submitted April 1, 2010, included as Attachment d;
- e) URE's Certification of Mitigation Plan Completion for CIP-003-1 R2 dated April 7, 2010, included as Attachment e; and
- f) WECC's Verification of Mitigation Plan Completion for CIP-003-1 R2 dated September 10, 2010, included as Attachment f.

**A Form of Notice Suitable for Publication<sup>8</sup>**

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

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<sup>8</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:

<p>Gerald W. Cauley President and Chief Executive Officer David N. Cook* Sr. 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 david.cook@nerc.net</p> <p>Mark Maher* Chief Executive Officer Western Electricity Coordinating Council 155 North 400 West, Suite 200 Salt Lake City, UT 84103 (360) 713-9598 (801) 582-3918 – facsimile Mark@wecc.biz</p> <p>Constance White* Vice President of Compliance Western Electricity Coordinating Council 155 North 400 West, Suite 200 Salt Lake City, UT 84103 (801) 883-6885 (801) 883-6894 – facsimile CWhite@wecc.biz</p> <p>Sandy Mooy* Senior Legal Counsel Western Electricity Coordinating Council 155 North 400 West, Suite 200 Salt Lake City, UT 84103 (801) 819-7658 (801) 883-6894 – facsimile SMooy@wecc.biz</p>	<p>Rebecca J. Michael* Associate General Counsel for Corporate and Regulatory Matters Sonia C. Mendonça* 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 sonia.mendonca@nerc.net</p> <p>Christopher Luras* Manager of Compliance Enforcement Western Electricity Coordinating Council 155 North 400 West, Suite 200 Salt Lake City, UT 84103 (801) 883-6887 (801) 883-6894 – facsimile CLuras@wecc.biz</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>
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## Conclusion

Accordingly, NERC respectfully requests that the Commission accept this Abbreviated NOP as compliant with its rules, regulations and orders.

Respectfully submitted,

Gerald W. Cauley  
President and Chief Executive Officer  
David N. Cook  
Sr. Vice President and General Counsel  
North American Electric Reliability Corporation  
116-390 Village Boulevard  
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(609) 452-9550 – facsimile  
david.cook@nerc.net

/s/ Rebecca J. Michael  
Rebecca J. Michael  
Associate General Counsel for Corporate  
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cc: Unidentified Registered Entity  
Western Electricity Coordinating Council

Attachments

**Attachment b**

**Disposition Document**

**DISPOSITION OF VIOLATION<sup>1</sup>**  
**Dated December 10, 2010**

NERC TRACKING NO.	REGIONAL ENTITY TRACKING NO.	NOC#
<b>WECC200901705</b>	<b>WECC200901705</b>	<b>NOC-597</b>

REGISTERED ENTITY <b>Unidentified Registered Entity (URE)</b>	NERC REGISTRY ID <b>NCRXXXXX</b>
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REGIONAL ENTITY  
**Western Electricity Coordinating Council (WECC)**

**I. VIOLATION INFORMATION**

RELIABILITY STANDARD	REQUIREMENT(S)	SUB-REQUIREMENT(S)	VRF(S)	VSL(S)
<b>CIP-003-1</b>	<b>R2</b>		<b>Lower<sup>2</sup></b>	<b>Severe</b>

**PURPOSE OF THE RELIABILITY STANDARD AND TEXT OF RELIABILITY STANDARD AND REQUIREMENT(S)/SUB-REQUIREMENT(S)**

**The purpose statement of CIP-003-1 provides in pertinent part: “Standard CIP-003 requires that Responsible Entities<sup>[3]</sup> have minimum security management controls in place to protect Critical Cyber Assets. Standard CIP-003 should be read as part of a group of standards numbered Standards CIP-002 through CIP-009.... (footnote added)**

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<sup>1</sup> For purposes of this document and attachments hereto, each violation at issue is described as a “violation,” regardless of its procedural posture and whether it was a possible, alleged or confirmed violation.

<sup>2</sup> When NERC filed Violation Risk Factors (VRF) it originally assigned CIP-003-1 R2 a Lower VRF. The Commission approved the VRF as filed; however, it directed NERC to submit modifications. NERC submitted the modified Medium VRF and on January 27, 2009, the Commission approved the modified Medium VRF. Therefore, the Lower VRF for CIP-003-1 R2 was in effect from June 18, 2007 until January 27, 2009 when the Medium VRF became effective. CIP-003-1 R2.1, R2.2 and R2.3 have Lower VRFs. The Mitigation Plan incorrectly states that the violation had a Medium VRF.

<sup>3</sup> Within the text of the CIP-002 through CIP-009 Standards, “Responsible Entity” shall mean Reliability Coordinator, Balancing Authority, Interchange Authority, Transmission Service Provider, Transmission Owner, Transmission Operator, Generator Owner, Generator Operator, Load Serving Entity, NERC, and Regional Reliability Organizations.



**CIP-003-1 R2 provides:**

**Leadership - The Responsible Entity shall assign a senior manager with overall responsibility for leading and managing the entity's implementation of, and adherence to, Standards CIP-002 through CIP- 009.**

- R2.1 The senior manager shall be identified by name, title, business phone, business address, and date of designation.**
- R2.2 Changes to the senior manager must be documented within thirty calendar days of the effective date.**
- R2.3 The senior manager or delegate(s), shall authorize and document any exception from the requirements of the cyber security policy.**

#### **VIOLATION DESCRIPTION**

**URE submitted a Self-Certification to WECC reporting its non-compliance with CIP-003-1 R2. Under the Implementation Plan for Cyber Security Standards,<sup>4</sup> URE is a “Table 3” entity and was required to be “compliant” with the Standard effective December 31, 2008. Nevertheless, URE reported that it was only “substantially compliant” because it had not assigned a senior manager with overall responsibility for leading and managing URE’s implementation and adherence to CIP-002 through CIP-009. URE’s attempt on May 19, 2009 to retract its self-certification was rejected by a WECC subject matter expert (SME) on October 26, 2009 because the SME concluded that the evidence provided supported a finding that URE had a violation of CIP-003-1 R2. WECC Enforcement concurred with the SME’s findings and notified URE on November 4, 2009 that its violation retraction request had been rejected.**

#### **RELIABILITY IMPACT STATEMENT- POTENTIAL AND ACTUAL**

**WECC determined that this violation posed a minimal risk to the reliability of the BPS because, although URE did not designate a senior manager with overall CIP responsibility in compliance with CIP-003-1 R2, URE was not required to be fully compliant with the remainder of Standards CIP-002 through CIP-009 until December 31, 2009.**

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<sup>4</sup> See [http://www.nerc.com/fileUploads/File/Standards/Revised\\_Implementation\\_Plan\\_CIP-002-009.pdf](http://www.nerc.com/fileUploads/File/Standards/Revised_Implementation_Plan_CIP-002-009.pdf).

**PRIVILEGED AND CONFIDENTIAL INFORMATION  
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IS THERE A SETTLEMENT AGREEMENT YES  NO

WITH RESPECT TO THE VIOLATION(S), REGISTERED ENTITY

NEITHER ADMITS NOR DENIES IT (SETTLEMENT ONLY) YES   
 ADMITS TO IT YES   
**Stipulates to the facts**  
 DOES NOT CONTEST IT (INCLUDING WITHIN 30 DAYS) YES

WITH RESPECT TO THE ASSESSED PENALTY OR SANCTION, REGISTERED ENTITY

ACCEPTS IT/ DOES NOT CONTEST IT YES

**III. DISCOVERY INFORMATION**

METHOD OF DISCOVERY

SELF-REPORT   
 SELF-CERTIFICATION   
 COMPLIANCE AUDIT   
 COMPLIANCE VIOLATION INVESTIGATION   
 SPOT CHECK   
 COMPLAINT   
 PERIODIC DATA SUBMITTAL   
 EXCEPTION REPORTING

DURATION DATE(S) **12/31/08 (Date URE was to be 'compliant' with CIP-003-1 R2 under the Implementation Plan for Cyber Security Standards) through 11/30/09 (Date of Mitigation Plan completion)**<sup>5</sup>

DATE DISCOVERED BY OR REPORTED TO REGIONAL ENTITY **1/14/09**

IS THE VIOLATION STILL OCCURRING YES  NO   
 IF YES, EXPLAIN

REMEDIAL ACTION DIRECTIVE ISSUED YES  NO   
 PRE TO POST JUNE 18, 2007 VIOLATION YES  NO

<sup>5</sup> The Mitigation Plan incorrectly states that the violation duration was from December 31, 2008 to June 10, 2009.

**PRIVILEGED AND CONFIDENTIAL INFORMATION  
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**IV. MITIGATION INFORMATION**

FOR FINAL ACCEPTED MITIGATION PLAN:

MITIGATION PLAN NO.	<b>MIT-09-2819</b>
DATE SUBMITTED TO REGIONAL ENTITY	<b>4/1/10</b>
DATE ACCEPTED BY REGIONAL ENTITY	<b>8/19/10<sup>6</sup></b>
DATE APPROVED BY NERC	<b>10/5/10</b>
DATE PROVIDED TO FERC	<b>10/6/10</b>

IDENTIFY AND EXPLAIN ALL PRIOR VERSIONS THAT WERE ACCEPTED OR REJECTED, IF APPLICABLE

N/A

MITIGATION PLAN COMPLETED YES  NO

EXPECTED COMPLETION DATE	<b>Submitted as complete</b>
EXTENSIONS GRANTED	<b>N/A</b>
ACTUAL COMPLETION DATE	<b>11/30/09</b>
DATE OF CERTIFICATION LETTER	<b>4/7/10</b>
CERTIFIED COMPLETE BY REGISTERED ENTITY AS OF	<b>11/30/09</b>
DATE OF VERIFICATION LETTER	<b>9/10/10</b>
VERIFIED COMPLETE BY REGIONAL ENTITY AS OF	<b>11/30/09</b>

ACTIONS TAKEN TO MITIGATE THE ISSUE AND PREVENT RECURRENCE

**In June 2009, a memorandum was prepared for execution formally designating a compliance officer over reliability to oversee CIP effective June 29, 2009. After being notified by WECC that its violation retraction request had been rejected, URE realized it had misplaced the June 2009 memorandum. Therefore, URE redrafted the memorandum which was executed on November 30, 2009.**

LIST OF EVIDENCE REVIEWED BY REGIONAL ENTITY TO EVALUATE COMPLETION OF MITIGATION PLAN (FOR CASES IN WHICH MITIGATION IS NOT YET COMPLETED, LIST EVIDENCE REVIEWED FOR COMPLETED MILESTONES)

- **URE's PowerPoint Presentation documenting CIP-003-1 R2 compliance dated May 19, 2009**
- **A copy of the November 30, 2009 memorandum which designated a compliance officer over reliability**

<sup>6</sup> On April 23, 2010, WECC notified URE that it needed additional time to review the Mitigation Plan.

**PRIVILEGED AND CONFIDENTIAL INFORMATION  
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**V. PENALTY INFORMATION**

TOTAL ASSESSED PENALTY OR SANCTION OF **\$2,000** FOR **ONE** VIOLATION OF RELIABILITY STANDARDS.

(1) REGISTERED ENTITY'S COMPLIANCE HISTORY

PREVIOUSLY FILED VIOLATIONS OF ANY OF THE INSTANT RELIABILITY STANDARD(S) OR REQUIREMENT(S) THEREUNDER

YES  NO

LIST VIOLATIONS AND STATUS

ADDITIONAL COMMENTS

PREVIOUSLY FILED VIOLATIONS OF OTHER RELIABILITY STANDARD(S) OR REQUIREMENTS THEREUNDER

YES  NO

LIST VIOLATIONS AND STATUS

ADDITIONAL COMMENTS

(2) THE DEGREE AND QUALITY OF COOPERATION BY THE REGISTERED ENTITY (IF THE RESPONSE TO FULL COOPERATION IS "NO," THE ABBREVIATED NOP FORM MAY NOT BE USED.)

FULL COOPERATION YES  NO   
IF NO, EXPLAIN

(3) THE PRESENCE AND QUALITY OF THE REGISTERED ENTITY'S COMPLIANCE PROGRAM

IS THERE A DOCUMENTED COMPLIANCE PROGRAM  
YES  NO  UNDETERMINED

EXPLAIN

**URE did not receive credit for a compliance program because it was not reviewed by WECC.**

**PRIVILEGED AND CONFIDENTIAL INFORMATION  
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EXPLAIN SENIOR MANAGEMENT'S ROLE AND INVOLVEMENT WITH RESPECT TO THE REGISTERED ENTITY'S COMPLIANCE PROGRAM, INCLUDING WHETHER SENIOR MANAGEMENT TAKES ACTIONS THAT SUPPORT THE COMPLIANCE PROGRAM, SUCH AS TRAINING, COMPLIANCE AS A FACTOR IN EMPLOYEE EVALUATIONS, OR OTHERWISE.

**See above.**

(4) ANY ATTEMPT BY THE REGISTERED ENTITY TO CONCEAL THE VIOLATION(S) OR INFORMATION NEEDED TO REVIEW, EVALUATE OR INVESTIGATE THE VIOLATION.

YES  NO   
IF YES, EXPLAIN

(5) ANY EVIDENCE THE VIOLATION(S) WERE INTENTIONAL (IF THE RESPONSE IS "YES," THE ABBREVIATED NOP FORM MAY NOT BE USED.)

YES  NO   
IF YES, EXPLAIN

(6) ANY OTHER MITIGATING FACTORS FOR CONSIDERATION

YES  NO   
IF YES, EXPLAIN

(7) ANY OTHER AGGRAVATING FACTORS FOR CONSIDERATION

YES  NO   
IF YES, EXPLAIN

(8) ANY OTHER EXTENUATING CIRCUMSTANCES

YES  NO   
IF YES, EXPLAIN

EXHIBITS:

SOURCE DOCUMENT

**URE's Self-Certification for CIP-003-1 R2 submitted January 14, 2009**

MITIGATION PLAN

**Mitigation Plan, MIT-09-2819, submitted April 1, 2010**

CERTIFICATION BY REGISTERED ENTITY

**URE's Certification of Mitigation Plan Completion submitted April 7, 2010**

VERIFICATION BY REGIONAL ENTITY

**WECC's Verification of Mitigation Plan Completion submitted September 10, 2010**

OTHER RELEVANT INFORMATION:

NOTICE OF ALLEGED VIOLATION AND PROPOSED PENALTY OR  
SANCTION ISSUED

DATE: **11/24/09** OR N/A

SETTLEMENT DISCUSSIONS COMMENCED

DATE: **12/30/09** OR N/A

NOTICE OF CONFIRMED VIOLATION ISSUED

DATE: OR N/A

SUPPLEMENTAL RECORD INFORMATION

DATE(S) OR N/A

REGISTERED ENTITY RESPONSE CONTESTED

FINDINGS  PENALTY  BOTH  NO CONTEST

HEARING REQUESTED

YES  NO

DATE

OUTCOME

APPEAL REQUESTED