



NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

PRIVILEGED AND CONFIDENTIAL INFORMATION  
HAS BEEN REMOVED FROM THIS PUBLIC VERSION

November 30, 2010

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

**Re: NERC Deficiency 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 Deficiency Notice of Penalty (Deficiency NOP) regarding Unidentified Registered Entity (URE),<sup>1</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)). Violations<sup>2</sup> addressed within a Deficiency NOP are administrative, minor or documentation in nature. In this case, URE had identified a primary contact that was acting as a senior manager, but had not identified the individual as the senior manager.

The Settlement Agreement resolves all outstanding issues arising from SERC Reliability Corporation (SERC)'s determination and findings of the enforceable violation of CIP-003-1 Requirement (R) 2. According to the Settlement Agreement, URE admits the violation and has agreed to the assessed penalty of zero dollars (\$0) 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.

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<sup>1</sup> The Disposition Document addresses: (1) all relevant facts, in sufficient detail, to indicate the nature of the violation cited and its duration; (2) sufficient information on whether an entity did not perform the action required by the relevant Reliability Standard or failed to document that the action had been performed; (3) a linkage between specific facts and the penalty factors listed as relevant to the penalty determination; (4) specific information in a mitigation plan how a registered entity will comply with the requirements it has violated; and (5) specific information on how a Regional Entity verified that a registered entity timely completed a mitigation plan.

<sup>2</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.

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Taking into consideration the Commission's direction in Order No. 693, the NERC Sanction Guidelines and the Commission's July 3, 2008, October 26, 2009 and August 27, 2010 Guidance Orders,<sup>3</sup> the NERC BOTCC reviewed the findings and assessed penalty or sanction and approved the Settlement Agreement on October 12, 2010, including SERC's assessment of no financial penalty against URE and other actions to facilitate future compliance required under the terms and conditions of the Settlement Agreement.

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 Deficiency NOP with the Commission, or, if the Commission decides to review the penalty, upon final determination by the Commission.

### **Request for Confidential Treatment**

Information in and certain attachments to the instant Notice of Penalty include privileged and 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. Specifically, this includes non-public information related to certain Reliability Standard violations, certain Regional Entity investigative files, Registered Entity sensitive business and confidential information exempt from the mandatory public disclosure requirements of the Freedom of Information Act, 5 U.S.C. 552, and should be withheld from public disclosure.

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>3</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).

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

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

- a) Settlement Agreement by and between SERC and URE executed November 22, 2010, included as Attachment a;
  - i. Disposition of Violation and Verification of Completion contained therein, included as Attachment A to the Settlement Agreement;
- b) URE's Self-Report for CIP-003-1 R2 dated June 1, 2010, included as Attachment b;
- c) URE's Mitigation Plan MIT-09-2697 for CIP-003-1 R2 submitted July 2, 2010, included as Attachment c; and
- d) URE's Certification of Mitigation Plan Completion for CIP-003-1 R2 dated July 27, 2010, included as Attachment d.

### **A Form of Notice Suitable for Publication<sup>4</sup>**

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

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<sup>4</sup> See 18 C.F.R. § 39.7(d)(6).

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**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, NJ 08540-5721 (609) 452-8060 (609) 452-9550 – facsimile david.cook@nerc.net</p> <p>Kenneth B. Keels, Jr.* Director of Compliance Andrea Koch* Manager of Compliance Enforcement and Mitigation SERC Reliability Corporation 2815 Coliseum Centre Drive, Suite 500 Charlotte, NC 28217 (704) 940-8214 (704) 357-7914 – facsimile kkeels@serc1.org akoch@serc1.org</p> <p>*Persons to be included on the Commission’s service list are indicated with an asterisk. NERC requests waiver of the Commission’s rules and regulations to permit the inclusion of more than two people on the service list.</p>	<p>Rebecca J. Michael* Assistant General Counsel Davis Smith* Attorney North American Electric Reliability Corporation 1120 G Street, N.W. Suite 990 Washington, DC 20005-3801 (202) 393-3998 (202) 393-3955 – facsimile rebecca.michael@nerc.net davis.smith@nerc.net</p> <p>R. Scott Henry* President and CEO SERC Reliability Corporation 2815 Coliseum Centre Drive Charlotte, NC 28217 (704) 940-8202 (704) 357-7914 – facsimile shenry@serc1.org</p> <p>Marisa A. Sifontes* General Counsel Jacqueline E. Carmody* Legal Counsel SERC Reliability Corporation 2815 Coliseum Centre Drive, Suite 500 Charlotte, NC 28217 (704) 494-7775 (704) 357-7914 – facsimile msifontes@serc1.org jcarmody@serc1.org</p>
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## Conclusion

Accordingly, NERC respectfully requests that the Commission accept this Deficiency 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  
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/s/ Rebecca J. Michael  
Rebecca J. Michael  
Assistant General Counsel  
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cc: Unidentified Registered Entity  
SERC Reliability Corporation

Attachments

**Disposition of Violation and Verification of  
Completion of the Mitigation Plan contained  
therein**

## DISPOSITION OF VIOLATION<sup>1</sup>

Dated November 22, 2010

NERC TRACKING NO.	SERC TRACKING NO.	NOC#
<b>SERC201000546</b>	<b>SERC2010-400632</b>	<b>NOC-660</b>

REGISTERED ENTITY <b>Unidentified Registered Entity (URE)</b>	NERC REGISTRY ID <b>NCRXXXXX</b>
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REGIONAL ENTITY  
**SERC Reliability Corporation (SERC)**

### I. VIOLATION INFORMATION

RELIABILITY STANDARD	REQUIREMENT(S)	SUB-REQUIREMENT(S)	VRF*(S)	VSL**(S)
<b>CIP-003-1<sup>2</sup></b>	<b>2</b>	<b>2.1</b>	<b>Lower<sup>3</sup></b>	<b>Severe</b>

*\*Violation Risk Factor (VRF)*

*\*\*Violation Severity Level (VSL)*

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 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....”**

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

**R2. 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.**

<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> CIP-003-1 was enforceable from July 1, 2008 (for certain Responsible Entities) through March 31, 2010. CIP-003-2 is the current version of the enforceable Standard as of April 1, 2010 and CIP-003-3 will be effective October 1, 2010. The subsequent interpretations change the language of the original NERC Reliability Standard and its requirements, specifically the requirement at issue, R2. R2.1 no longer requires identification by business phone and address; R2.3 has been changed to R2.4, while the newest versions of the Standard add further clarification to delegation in R2.3. For consistency in this filing, the original NERC Reliability Standard, CIP-003-1 is used throughout.

<sup>3</sup> CIP-003-1 R2 has a Medium Violation Risk Factor (VRF) and its sub-requirements each have a Lower VRF.

**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

**On June 1, 2010, URE self-reported that, although a senior manager had been designated as the responsible employee for compliance in its cyber security policy with the NERC Reliability Standards upon termination of its agreement with a supplier, URE had not identified this responsible senior manager by name, title, business phone, business address and date of designation, as required by R2.1, until May 26, 2010.**

**On June 3, 2010, SERC staff notified URE of the initiation of its compliance assessment of the self-reported violation. SERC staff contacted URE and requested any additional information relevant to the assessment and URE stated it had no documentation to provide. URE's CEO has been designated as the primary compliance, compliance officer, and CEO contact in the SERC portal since June 23, 2008. During the assessment of the Self-Report and based on statements from URE, SERC staff found that URE did not meet CIP-003-1 R2.1 until May 26, 2010, when it included the name, title, business phone, business address and date of designation in its Board-approved designation.**

**CIP-003-1 R2.1 had a "Lower" VRF according to the matrix in effect at the time the violation occurred. SERC staff assessed a VSL of "Severe" in accordance with the May 3, 2010 matrix in effect at the time the violation occurred as the senior manager is not identified by name, title, business phone, business address, and date of designation.**

RELIABILITY IMPACT STATEMENT- POTENTIAL AND ACTUAL

**SERC staff finds that the violation posed no serious or substantial risk to the reliability of the bulk power system (BPS) because URE had designated a senior manager but had simply failed to document the specific information regarding the individual as required by the Standard.**

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  

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)

**June 23, 2009 until mitigated on May 26, 2010.**

DATE DISCOVERED BY OR REPORTED TO REGIONAL ENTITY

June 1, 2010

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

**IV. MITIGATION INFORMATION**

FOR FINAL ACCEPTED MITIGATION PLAN:

MITIGATION PLAN NO. **MIT-09-2697**  
 DATE SUBMITTED TO REGIONAL ENTITY **July 2, 2010**  
 DATE ACCEPTED BY REGIONAL ENTITY **July 21, 2010**  
 DATE APPROVED BY NERC **August 19, 2010**  
 DATE PROVIDED TO FERC **August 20, 2010**

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

None.

MITIGATION PLAN COMPLETED YES  NO

EXPECTED COMPLETION DATE	Submitted as complete
EXTENSIONS GRANTED	None
ACTUAL COMPLETION DATE	May 26, 2010
DATE OF CERTIFICATION LETTER	July 27, 2010
CERTIFIED COMPLETE BY REGISTERED ENTITY AS OF	May 26, 2010
DATE OF VERIFICATION	August 10, 2010 <sup>4</sup>
VERIFIED COMPLETE BY REGIONAL ENTITY AS OF	May 26, 2010

ACTIONS TAKEN TO MITIGATE THE ISSUE AND PREVENT RECURRENCE  
**To correct the violation of CIP-003-1 R2, URE developed a policy addressing URE's regulatory compliance responsibilities, specifically assigned responsibilities in sufficient detail to satisfy the requirements of CIP-003-1 within a formal Compliance Program document and prescribe annual reviews of compliance responsibilities.**

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 submitted the following as evidence of completion of its Mitigation Plan:**

- 1. URE's policy, which is the document that establishes URE's regulatory compliance policy and culture of regulatory compliance;**
- 2. URE's compliance program, which is the document that describes the roles, responsibilities, and products of URE's compliance program; and**
- 3. An attestation signed by URE's, designating URE's COO and General Manager as joint senior managers with responsibilities that include compliance with CIP standards.**

## **V. PENALTY INFORMATION**

TOTAL ASSESSED PENALTY OR SANCTION OF **\$0** 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

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<sup>4</sup> This Disposition Document serves as SERC's Verification of Completion.

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   
EXPLAIN

**URE has a documented internal compliance program (ICP) and SERC considered it to be a neutral factor in determining the penalty.**

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.

(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

**The Mitigation Plan was submitted prior to issuance of a Notice of Alleged Violation and Proposed Penalty or Sanction (NAVAPS).**

(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  
**Self-Report, dated June 1, 2010**

MITIGATION PLAN  
**Mitigation Plan, submitted on July 2, 2010**

CERTIFICATION BY REGISTERED ENTITY  
**Certification of Completion of Mitigation Plan, dated July 27, 2010**

VERIFICATION BY REGIONAL ENTITY  
**This document serves as SERC's Verification of Completion**

OTHER RELEVANT INFORMATION:

NOTICE OF ALLEGED VIOLATION AND PROPOSED PENALTY OR SANCTION  
ISSUED

DATE: OR N/A

SETTLEMENT DISCUSSIONS COMMENCED

DATE: **July 13, 2010** 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