

February 27, 2014

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

**Re: NERC Full Notice of Penalty regarding Unidentified Registered Entity,
FERC Docket No. NP14-_-000**

Dear Ms. Bose:

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

This Notice of Penalty is being filed with the Commission because Southwest Power Pool Regional Entity (SPP RE) and URE have entered into a Settlement Agreement to resolve all outstanding issues arising from SPP RE's determination and findings of the violation³ of CIP-002-1. According to the Settlement Agreement, URE stipulates and agrees to the facts of 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. Accordingly, the violation identified as NERC Violation Tracking Identification Number SPP201000414 is being filed in accordance with the NERC Rules of Procedure and the CMEP.

¹ *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards* (Order No. 672), III FERC Stats. & Regs. ¶ 31,204 (2006); *Notice of New Docket Prefix "NP" for Notices of Penalty Filed by the North American Electric Reliability Corporation*, Docket No. RM05-30-000 (February 7, 2008). See also 18 C.F.R. Part 39 (2013). *Mandatory Reliability Standards for the Bulk-Power System*, FERC Stats. & Regs. ¶ 31,242 (2007) (Order No. 693), *reh'g denied*, 120 FERC ¶ 61,053 (2007) (Order No. 693-A). See 18 C.F.R § 39.7(c)(2).

² See 18 C.F.R § 39.7(c)(2).

³ 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.

Statement of Findings Underlying the Violation

This Notice of Penalty incorporates the findings and justifications set forth in the Settlement Agreement executed on December 10, 2013, by and between SPP RE and URE, which is included as Attachment a. 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 (2013), 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
Southwest Power Pool Regional Entity	Unidentified Registered Entity	NOC-2259	SPP201000414	CIP-002-1	R2	High	\$0

CIP-002-1

The purpose statement of Reliability Standard CIP-002-1 provides:

NERC Standards CIP-002 through CIP-009 provide a cyber security framework for the identification and protection of Critical Cyber Assets to support reliable operation of the Bulk Electric System.

These standards recognize the differing roles of each entity in the operation of the Bulk Electric System, the criticality and vulnerability of the assets needed to manage Bulk Electric System reliability, and the risks to which they are exposed. Responsible Entities should interpret and apply Standards CIP-002 through CIP-009 using reasonable business judgment.

Business and operational demands for managing and maintaining a reliable Bulk Electric System increasingly rely on Cyber Assets supporting critical reliability functions and processes to communicate with each other, across functions and organizations, for services and data. This results in increased risks to these Cyber Assets. Standard CIP-002 requires the identification and documentation of the Critical Cyber Assets associated with

the Critical Assets that support the reliable operation of the Bulk Electric System. These Critical Assets are to be identified through the application of a risk-based assessment.

CIP-002-1 R2 provides: “Critical Asset Identification — The Responsible Entity⁴ shall develop a list of its identified Critical Assets determined through an annual application of the risk-based assessment methodology required in R1. The Responsible Entity shall review this list at least annually, and update it as necessary.”

CIP-002-1 R2 has a “High” Violation Risk Factor (VRF) and a “Moderate” Violation Severity Level (VSL). The subject violation applies to URE’s Transmission Operator (TOP) function.

During a Spot Check, SPP RE identified a violation of CIP-002 R2. Specifically, the SPP RE Audit Team concluded that the evaluation criteria utilized by URE in its risk-based assessment methodology (RBAM) to identify Critical Assets had not been properly applied. The URE RBAM consists of an engineering analysis, a consequence analysis, and a third-party analysis. The consequence analysis involves answering a set of questions for each asset evaluated. A different set of questions is provided for facilities in each of the following asset categories: generation, transmission, and control centers. SPP RE found that URE had improperly answered a consequence analysis question for its blackstart generator used for system restoration, and for its primary and backup control centers (PCC and BCC). As a result, URE failed to identify these assets as Critical Assets.

During a Compliance Audit SPP RE identified a violation of CIP-002-3 R2. SPP RE concluded that when URE applied its RBAM to identify its Critical Assets, URE did not correctly answer a risk assessment question for its PCC, BCC, and a substation. Consequently, URE failed to identify its PCC, BCC, and the substation as Critical Assets.

The instant violation is a consolidation of the two violations of CIP-002 R2 identified by SPP RE in the Spot Check (SPP201000414) and in the Compliance Audit (SPP2013012066). SPP RE issued a Notice of Alleged Violation and Proposed Penalty or Sanction (NAVAPS) for SPP201000414. SPP RE proposed a penalty of \$7,200 for the violation. URE responded to the NAVAPS contesting the violation and the proposed penalty. SPP RE and URE were unable to resolve this compliance issue, and URE requested a hearing. Pursuant to a Joint Motion to Suspend the Procedural Schedule, the Hearing Officer issued

⁴ Within the text of Standard CIP-002, “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.

an order staying the hearing, pending approval of a Settlement Agreement by the NERC Board of Trustees Compliance Committee (BOTCC) and FERC.

SPP RE determined the duration of the violation to be from the date the Standard became mandatory and enforceable on URE as a "Table 2" entity, through the present.

SPP RE determined that this violation posed a moderate risk to the reliability of the bulk power system (BPS), but did not pose a serious or substantial risk. Specifically, by not identifying the PCC and BCC as Critical Assets, these facilities may not be afforded the protections of CIP-003 through CIP-009. Without these protections, the PCC and BCC could be destroyed, degraded, misused, or otherwise rendered unavailable due to a cyber attack. In addition, under the bright-line criteria in CIP-002-5, primary and backup transmission control centers are designated as "Medium" impact. The risk to the reliability of the BPS was mitigated by the following factors. Because there are no Critical Cyber Assets (CCAs) associated with URE's blackstart units, URE's failure to identify a blackstart unit as a Critical Asset is moot with regard to application of the protections provided by CIP-003 through CIP-009. Additionally, the blackstart unit and the affected substation are designated as "Low" impact under the bright-line criteria established in CIP-002-5. Accordingly, these facilities would not require the extensive protections provided by CIP-003-5 through CIP-009-5. SPP RE also considered URE's size and location as mitigating factors to the reliability of the BPS.

In addition, URE also had corporate physical and electronic cyber security measures in place. Its electric operations were separated via firewalls from other operations. There was physical security in place including a door access security system, card readers, and cameras that were continuously monitored. In addition, there were electronic security measures in place such as firewalls and intrusion detection systems for the Electronic Security Perimeter.

Regional Entity's Basis for Penalty

According to the Settlement Agreement, SPP RE has assessed a penalty of zero dollars (\$0) for the referenced violation. In reaching this determination, SPP RE considered the following factors:

1. the violation constituted URE's first occurrence of violation of the subject NERC Reliability Standard;
2. URE had a compliance program at the time of the violation, which SPP RE considered a mitigating factor;
3. there was no evidence of any attempt to conceal a violation nor evidence of intent to do so;

4. the violation did not pose a serious or substantial risk to the reliability of the BPS, as discussed above;
5. URE agreed to identify its control centers as Critical Assets and to bring any associated CCAs into compliance with CIP-003 through CIP-009; and
6. there were no other mitigating or aggravating factors or extenuating circumstances that would affect the assessed penalty.

After consideration of the above factors, SPP RE determined that, in this instance, the penalty amount of zero dollars (\$0) is appropriate and bears a reasonable relation to the seriousness and duration of the violation.

Status of Mitigation Plan⁵

URE's Mitigation Plan to address its violation of CIP-002-1 R2 was submitted to SPP RE. URE submitted a revised Mitigation Plan. The Mitigation Plan was accepted by SPP RE on November 21, 2013 and approved by NERC on December 6, 2013. The Mitigation Plan for this violation is designated as SPPMIT004918-1 and was submitted as non-public information to FERC on December 6, 2013 in accordance with FERC orders.

URE's Mitigation Plan required URE to:

1. adopt the CIP Standards Version 5 Bright-Line Criteria (V5 BLC) found in CIP-002- 5, Attachment 1 in lieu of maintaining a CIP Standards Version 3 compliant Risk Based Assessment Methodology;
2. identify Alternative Approach 2 in the NERC Cyber Security Standards Guidance (Revised) published September 5, 2013, for use in identifying Critical Assets;
3. identify its PCC and BCC, which meet one or more of the "High" or "Medium" V5 BLC, as its only Critical Assets;
4. identify as CCAs the Cyber Assets essential to the operation of any identified Critical Asset and meeting the qualifying criteria of CIP-002-3 Requirements R3.1, R3.2, or R3.3; and
5. apply the controls in CIP-003-3 through CIP-009-3 to those identified CCAs and any additional Cyber Assets brought into scope by the application of the requirements of CIP-003-3 through CIP-009-3.

⁵ See 18 C.F.R § 39.7(d)(7).

Statement Describing the Assessed Penalty, Sanction or Enforcement Action Imposed⁶

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, October 26, 2009 and August 27, 2010 Guidance Orders,⁷ the NERC BOTCC reviewed the Settlement Agreement and supporting documentation on February 4, 2014. The NERC BOTCC approved the Settlement Agreement, including SPP RE's assessment of a zero dollars (\$0) 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 requirement of the Commission-approved Reliability Standard and the underlying facts and circumstances of the violation at issue.

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

1. the violation constituted URE's first occurrence of violation of the subject NERC Reliability Standard;
2. URE had a compliance program at the time of the violation which SPP RE considered a mitigating factor, as discussed above;
3. there was no evidence of any attempt to conceal a violation nor evidence of intent to do so;
4. SPP RE determined that the violation did not pose a serious or substantial risk to the reliability of the BPS, as discussed above;
5. URE agreed to identify its control centers as Critical Assets and to bring any associated CCAs into compliance, as discussed above; and
6. SPP RE 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 and believes that the assessed penalty of zero dollars (\$0) is appropriate for the violation and circumstances at issue, and is consistent with NERC's goal to promote and ensure reliability of the BPS.

⁶ See 18 C.F.R. § 39.7(d)(4).

⁷ *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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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 Notice of Penalty 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.

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:

- a) Settlement Agreement by and between SPP RE and URE, included as Attachment a;
- b) SPP RE's Spot Check document, included as Attachment b;
- c) URE's Compliance Audit document, included as Attachment c;
- d) URE's Mitigation Plan designated as SPPMIT004918-1, included as Attachment d;

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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 North American Electric Reliability Corporation 3353 Peachtree Road NE Suite 600, North Tower Atlanta, GA 30326 (404) 446-2560</p> <p>Charles A. Berardesco* Senior Vice President and General Counsel North American Electric Reliability Corporation 1325 G Street N.W., Suite 600 Washington, DC 20005 (202) 400-3000 (202) 644-8099 – facsimile charles.berardesco@nerc.net</p> <p>Mr. Ron Ciesiel – General Manager Southwest Power Pool Regional Entity 201 Worthen Drive Little Rock, Arkansas 72223-4936 rciesiel.re@spp.org Office: 501-614-3265 Fax: 501-482-2025</p> <p>Mr. Joe Gertsch - Manager of Enforcement Southwest Power Pool Regional Entity 201 Worthen Drive Little Rock, Arkansas 72223-4936 Jgertsch.re@spp.org Office: 501-688-1672 Fax: 501-482-2025</p>	<p>Sonia C. Mendonça* Associate General Counsel and Director of Enforcement North American Electric Reliability Corporation 1325 G Street N.W., Suite 600 Washington, DC 20005 (202) 400-3000 (202) 644-8099 – facsimile sonia.mendonca@nerc.net</p> <p>Edwin G. Kichline* Senior Counsel and Associate Director, Enforcement Processing North American Electric Reliability Corporation 1325 G Street N.W., Suite 600 Washington, DC 20005 (202) 400-3000 (202) 644-8099 – facsimile edwin.kichline@nerc.net</p> <p>Mr. Jim Julian - Counsel to the SPP RE Chisenhall, Nestrud & Julian, P.A. Regions Center 400 West Capitol, Suite 2840 Little Rock, Arkansas 72201 jjulian@cnjlaw.com Office: 501-372-5800 Fax: 501-372-4941</p>
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*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.

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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/ Sonia Mendonça

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Attachments