

December 30, 2014

VIA ELECTRONIC FILING

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. NP15-_-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 ReliabilityFirst Corporation (ReliabilityFirst) and URE have entered into a Settlement Agreement to resolve all outstanding issues arising from ReliabilityFirst's determination and findings of the violation³ addressed in this Notice of Penalty. According to the Settlement Agreement, URE stipulates to the fact in the Settlement Agreement and admits that those facts constitute a violation of NERC Reliability Standards, and has agreed to a zero dollar penalty (\$0), in addition to other remedies and actions to mitigate the instant

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 (2014). *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) and 18 C.F.R § 39.7(d).

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.

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violation and facilitate future compliance under the terms and conditions of the Settlement Agreement. Accordingly, the violation in this Full Notice of Penalty is being filed in accordance with the NERC Rules of Procedure and the CMEP.

Statement of Findings Underlying the Violation

This Notice of Penalty incorporates the findings and justifications set forth in the Settlement Agreement, 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 (2014), NERC provides the following summary table identifying each violation of a Reliability Standard resolved by the Settlement Agreement, as discussed in greater detail below.

NERC Violation ID	Reliability Std.	Req.	VRF/VSL*	Total Penalty
RFC2013013030	CIP-007-3a	R3	Lower/ Severe	\$0

*Violation Risk Factor (VRF) and Violation Severity Level (VSL)

CIP-007-3a R3 (RFC2013013030)

URE first contacted ReliabilityFirst to self-report its noncompliance with CIP-007-3a R3. URE followed up and submitted a Self-Report to ReliabilityFirst stating it had a violation of CIP-007-3a R3.

ReliabilityFirst determined that URE had a violation of CIP-007-3a R3 because it failed to implement its security patch management program when a URE employee backdated documentation related to URE’s tracking of security software patches. Specifically, a URE supervisor had been backdating energy management system (EMS) patch logs.

For a period of approximately five months, a line item for one software application was accidentally omitted from the workflow list. Because of this omission, URE personnel were not reviewing whether security-related patches had been released for the software application. Once URE identified this issue, personnel reinserted the line item into the workflow list. However, the supervisor then modified previous versions of the log to appear as though personnel had been reviewing the software application during the five-month period.

For a period of approximately ten months, the supervisor backdated over 20 non-installation forms. The supervisor changed dates showing when the assessment or documentation was completed, to appear as though work was performed in a timelier manner than it was actually done.

The supervisor inserted and backdated a line onto the patch logs for the EMS to show that a single patch assessment was completed for one particular software patch. Personnel had completed the assessment on time, but the supervisor did not document this on the log until three months after the assessment—two months after it should have been added.

ReliabilityFirst determined the duration of the violation to be from the earliest date on which URE improperly recorded its patch assessment, through when URE terminated the supervisor and completed its mitigating activities.

ReliabilityFirst determined that this violation posed a minimal and not serious or substantial risk to the reliability of the bulk power system (BPS). URE completed all patch assessments timely, as no patches were issued during the five-month period when the employee was not evaluating the software patches. Regarding the altered information that URE identified in its documentation, URE neither submitted the information to ReliabilityFirst during the course of a Compliance Audit, nor was it relied upon for URE's Self-Certifications to ReliabilityFirst as proof of compliance with CIP-007 R3. URE did not share the incorrect documentation externally in the compliance arena, self-discovered the issue, and remediated the violation prior to any transfer of information to ReliabilityFirst.

In addition to the risk posed by the violation, ReliabilityFirst also considered the wider potential reliability impact of an employee falsifying documentation. The falsified documentation could have affected not only records of compliance but the entity could also have used them in daily operations. The risk of the employee actions was mitigated because information shared by URE during the voluntary ReliabilityFirst performance appraisal demonstrated the noncompliance at issue was an isolated concern, and was not indicative of a wider workforce management performance failure. URE had in place internal controls and a compliance culture that self-identified, self-reported, and promptly addressed the actions of the employee responsible for the falsification. Finally, URE terminated the employee promptly after identifying the issue.

URE's mitigation activities to address this violation were submitted to ReliabilityFirst stating they had been completed.

URE took the following actions to mitigate this violation:

1. implemented a patch assessment control mechanism. This new mechanism reduced the risk of missing a patch assessment and ensures data integrity, thereby making backdating more difficult;
2. terminated the supervisor's employment and immediately disabled his physical and electronic access to all assets; and
3. assessed its workforce management (including hiring, training, and promoting employees) through a ReliabilityFirst-led appraisal.

URE provided evidence of completion that it had completed the above mitigation activities.

ReliabilityFirst verified that URE's Mitigation Plan was completed.

Regional Entity's Basis for Penalty

According to the Settlement Agreement, ReliabilityFirst did not assess a monetary penalty for the referenced violation. In reaching this determination, ReliabilityFirst considered the following factors:

1. URE voluntarily underwent a ReliabilityFirst performance appraisal of its management practices and procedures. Information received during this appraisal demonstrated that the noncompliance at issue was an isolated concern, and not indicative of any performance failure in the context of workforce management.
2. ReliabilityFirst determined URE's compliance history should not serve as an aggravating factor in the penalty determination;
3. URE had an internal compliance program at the time of the violation;
4. URE showed a clear commitment to strengthening its internal controls and preventing recurrence of noncompliance;
5. URE was able to detect and correct this violation because of improvements in its workforce management and internal controls;
6. URE self-reported the violation;
7. URE was cooperative throughout the compliance enforcement process;
8. there was no evidence of any attempt to conceal a violation nor evidence of intent to do so, except by the lone supervisor;

9. the violation posed a minimal risk to the reliability of the BPS but did not pose a serious or substantial risk, as discussed above; and
10. there were no other mitigating or aggravating factors or extenuating circumstances that would affect the assessed penalty.

After consideration of the above factors, ReliabilityFirst determined that, in this instance, a monetary penalty would not be appropriate for this violation.

Statement Describing the Assessed Penalty, Sanction or Enforcement Action Imposed⁴

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,⁵ the NERC BOTCC reviewed the Settlement Agreement and supporting documentation on December 18, 2014 and approved 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 violation at issue.

In reaching this determination, the NERC BOTCC also considered the factors considered by ReliabilityFirst as listed above, as well as the following factors:

For the foregoing reasons, the NERC BOTCC approved the Settlement Agreement and believes that the no monetary penalty 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 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

REDACTED FROM THIS PUBLIC VERSION

⁴ See 18 C.F.R. § 39.7(d)(4).

⁵ *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).

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>Robert K. Wargo* Vice President Reliability Assurance & Monitoring ReliabilityFirst Corporation 3 Summit Park Drive, Suite 600 Cleveland, OH 44131 (216) 503-0682 (216) 503-9207 facsimile bob.wargo@rfirst.org</p>	<p>Sonia C. Mendonça* Associate General Counsel and Senior 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>Jason Blake* General Counsel & Corporate Secretary ReliabilityFirst Corporation 3 Summit Park Drive, Suite 600 Cleveland, OH 44131 (216) 503-0683 (216) 503-9207 facsimile jason.blake@rfirst.org</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.

NERC Notice of Penalty
Unidentified Registered Entity
December 30, 2014
Page 8

PRIVILEGED AND CONFIDENTIAL INFORMATION
HAS BEEN REMOVED FROM THIS PUBLIC VERSION

Conclusion

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

Respectfully submitted,

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cc: Unidentified Registered Entity
ReliabilityFirst Corporation

Attachments