



NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

July 10, 2009

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

**Re: NERC Notice of Penalty regarding Lincoln Electric System, FERC Docket No. NP09-  
-000**

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Notice of Penalty<sup>1</sup> regarding Lincoln Electric System (LES),<sup>2</sup> NERC Registry ID: NCR01001,<sup>3</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 of NERC's Compliance Monitoring and Enforcement Program (CMEP).<sup>4</sup>

This Notice of Penalty is being filed with the Commission because, based on information from Midwest Reliability Organization (MRO), LES does not dispute the alleged violations of COM-002-2 Requirement (R) 2 and FAC-003-1 R2. MRO and LES have entered into a Settlement Agreement in which LES has agreed to the proposed penalty of fifty-thousand dollars (\$50,000) to be assessed to LES, in addition to other remedies that include mitigation actions and actions to prevent recurrence under the terms and conditions of the Settlement Agreement. MRO and LES have entered into the Settlement Agreement to resolve all outstanding issues arising from a preliminary and non-public assessment resulting in MRO's determination and findings of the enforceable alleged violations, at issue in this Notice of Penalty. Accordingly, the alleged violations identified as NERC Violation Tracking Identification Numbers MRO200800052,

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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 (2008). *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).

<sup>2</sup> LES referred to in this filing is registered on the NERC Compliance Registry under the NERC ID # NCR01001, and is registered with Midwest Reliability Organization (MRO).

<sup>3</sup> LES was included on the NERC Compliance Registry, as of May 30, 2007, as a Balancing Authority, Distribution Provider, Generator Operator, Generator Owner, Load Serving Entity, Purchase-Selling Entity, Resource Planner, Transmission Operator, Transmission Owner, Transmission Planner and Transmission Service Provider, and is subject to the requirements of the NERC Reliability Standards set forth herein.

<sup>4</sup> *See* 18 C.F.R § 39.7(c)(2).

MRO200800054 and MRO200800055 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 April 21, 2009 by and between MRO and LES, which is included as Attachment b and the Supplemental Record Information notice dated April 22, 2009. 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 (2007), NERC provides the following summary table identifying each alleged 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 Standard	Req. (R)	VRF	Total (\$) Penalty
MRO	Lincoln Electric System	NOC-172	MRO200800052	COM-002-2	2	Medium	\$50,000
		NOC-172	MRO200800054	FAC-003-1	2	High	
		NOC-172	MRO200800055	FAC-003-1	2	High	

#### COM-002-2

The purpose of Reliability Standard COM-002-2 is to ensure Balancing Authorities, Transmission Operators, and Generator Operators have adequate communications and that these communications capabilities are staffed and available for addressing a real-time emergency condition and to ensure communications by operating personnel are effective.

COM-002-2 R2 requires each Reliability Coordinator, Transmission Operator, and Balancing Authority such as LES to issue directives in a clear, concise, and definitive manner; to ensure the recipient of the directive repeats the information back correctly; and acknowledge the response as correct or repeat the original statement to resolve any misunderstandings. COM-002-2 R2 has a "Medium" Violation Risk Factor (VRF).

As a result of a scheduled Compliance Audit conducted June 11, 2008 through June 27, 2008,<sup>5</sup> MRO found LES non-compliant with Reliability Standards COM-002-2 R2 and two instances of FAC-003-1 R2.<sup>6</sup> According to the Settlement Agreement, for COM-002-2 R2, MRO staff

<sup>5</sup> The on-site portion of the LES audit was conducted June 25-27, 2008. The documentation review began on June 11, 2008.

<sup>6</sup> The Compliance Audit Report incorrectly references FAC-003-0 as the applicable Reliability Standard; however this standard was never FERC-approved. The approved Reliability Standard relating to the Transmission Vegetation Management Program is FAC-003-1. In addition, the Compliance Audit Report noted possible violations of FAC-003-1, R1 and PER-002-0, R3; however, upon review by the MRO enforcement staff, Notices of Dismissal were issued on October 1, 2008 with respect to these two possible violations.

reviewed voice recordings from April 14, 2008 and April 28, 2008. Upon review of the voice recordings, MRO discovered that LES transmission switching personnel did not confirm nor repeat back directives issued to the transmission system operator. MRO further reviewed taped phone conversations that lacked a repeat acknowledgement of directives, contained examples of misunderstandings, and did not verify that steps in the switching order had been completed. In another example, lines and equipment were removed from service and the receiver of this information did not repeat back the information to verify a complete understanding of the switching order.

During the course of reviewing evidence, MRO also discovered an instance where an LES switchman called the control center operator in order to report the switching time information. During the conversation, the switchman informed the operator of a correction made to the switching sequence that had just been completed. During the switching process, the switchman realized the switching sequence could not be completed as documented in the switching order. Without contacting the control center operator, the switchman changed and implemented a new switching sequence.

MRO concluded that LES failed to repeat directives or acknowledge a response as correct and, on at least one occasion, LES failed to provide clear, concise and definitive switching orders as required by COM-002-2 R2. The duration of this violation was from June 18, 2007, the effective date of the standard, until June 27, 2008, the date the Mitigation Plan was completed and the violation was completely mitigated by LES issuing new switching order procedures in the document, *Switching Order Execution Memo*.

#### FAC-003-1

The purpose of Reliability Standard FAC-003-1 is to improve the reliability of the electric transmission systems by preventing outages from vegetation located on transmission rights-of-way (ROW) and minimizing outages from vegetation located adjacent to ROW, maintaining clearances between transmission lines and vegetation on and along the transmission ROW, and reporting vegetation related outages of the transmission systems to the respective Regional Reliability Organizations (RRO) and NERC.

FAC-003-1 R2 requires a Transmission Owner such as LES to create and implement an annual plan for vegetation management work to ensure the reliability of the system. The plan shall describe the methods used, such as manual clearing, mechanical clearing, herbicide treatment, or other actions. The plan should be flexible enough to adjust to changing conditions, taking into consideration anticipated growth of vegetation and all other environmental factors that may have an impact on the reliability of the transmission systems. Adjustments to the plan shall be documented as they occur. The plan should take into consideration the time required to obtain permissions or permits from landowners or regulatory authorities. Each Transmission Owner shall have systems and procedures for documenting and tracking the planned vegetation management work and ensuring that the vegetation management work was completed according to work specifications. FAC-003-1 R2 has a "High" VRF.

For the first violation of FAC-003-1 R2, MRO reviewed the findings of the Audit team and determined that the Transmission Vegetation Management Program (TVMP) in effect from

September 9, 2005<sup>7</sup> through March 26, 2008 did not take into consideration anticipated growth rates of vegetation or the time it takes to obtain permissions or permits to conduct vegetation management work. The duration of the violation was from June 18, 2007, the effective date of the standard, until March 27, 2008, when a revised TVMP included consideration of anticipated growth rates of vegetation and the time necessary to obtain permits or permissions to conduct the vegetation management work.

For the second violation of FAC-003-1 R2, MRO reviewed the findings of the Audit team and determined that LES' revised TVMP, effective March 27, 2008, failed to document and track the required bi-monthly aerial patrols to be performed according to the plan specifications. LES was not able to provide evidence of these patrols in 2008, and therefore, LES was not able to demonstrate that its vegetation management work was completed according to work specifications. LES provided evidence of its annual inspections during the audit which were up to date. MRO determined that the violation began on March 27, 2008 when the revised TVMP with the bi-monthly aerial patrol provision became effective. The violation continued until July 13, 2008, when a revised TVMP was implemented with an effective date of July 14, 2008.

According to MRO's Supplemental Record of Information, MRO considered the following factors, in addition to the reasons stated above, to determine the penalty amount: 1) LES mitigated the violation of COM-002-2 R2 on June 27, 2008, the same day the Compliance Audit was concluded, and before MRO had issued its July 2, 2008 Compliance Audit Report; 2) LES was conducting the annual vegetation patrols required by FAC-003-1 R2 and has not experienced any vegetation contacts; 3) LES mitigated the TVMP deficiencies and had implemented a fully compliant TVMP on July 14, 2008; 4) LES made no attempt to conceal these alleged violations and quickly acted to mitigate the concerns; 5) LES demonstrated its commitment to reliability by immediately accepting responsibility for the identified violations and taking the necessary corrective actions in a timely fashion; 6) LES fully cooperated with MRO as it willingly discussed and provided additional information regarding the alleged violations in a timely manner; 7) MRO determined the violation of COM-002-2 R2 was not a violation that put bulk power system reliability at serious or substantial risk, because of the limited size of the LES transmission operating area and because LES immediately changed its communication protocol and notified all transmission system operators via a memorandum on June 27, 2008; 8) LES was maintaining a TVMP and conducting annual patrols, therefore, the violations of FAC-003-1 R2 did not put the bulk power system reliability at serious or substantial risk; 9) this is the first violation of COM-002-2 R2 by LES; and 10) this is the first violation of FAC-003-1 R2 by LES. Although there were two instances of noncompliance with FAC-003-1 R2, they were discovered during the same Compliance Audit and MRO considered them as separate but related instances.

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<sup>7</sup> The Settlement Agreement indicates that the TVMP was in effect from July 1, 2007 through March 26, 2008. The TVMP was actually dated and in effect from September 9, 2005 through March 26, 2008. On July 1, 2007, LES assumed additional vegetation management responsibilities from a contractor.

### **Status of Mitigation Plans**

LES' Mitigation Plans to address the referenced violations were submitted to MRO on December 29, 2008, accepted by MRO on January 9, 2009 and approved by NERC on February 17, 2009. The Mitigation Plans for these violations are designated as MIT-08-1362 (MRO200800052), MIT-08-1363 (MRO200800054) and MIT-08-1364 (MRO200800055) and were submitted as non-public information to FERC on February 23, 2009 in accordance with FERC orders. On January 12, 2009, LES certified to MRO that its Mitigation Plans were completed on June 27, 2008, March 27, 2008 and July 14, 2008, respectively. MRO reviewed the evidence submitted by LES in support of its Certification of Completion as discussed below. On February 17, 2009, MRO verified that LES completed its Mitigation Plans and was compliant with COM-002-2 R2 and FAC-003-1 R2. On February 25, 2009, MRO issued a document verifying that the Mitigation Plans were completed.

As evidence of completion of its COM-002-2 R2 Mitigation Plan, LES provided a copy of a June 27, 2008 memorandum issued to transmission system operators instructing them to provide clear directives, and requiring the switching personnel to repeat instructions back when implementing high voltage switching orders (the Switching Order Execution Document). At MRO's request, LES provided a list of all high voltage switching orders implemented between June 28, 2008 and December 31, 2008. MRO used a random sampling process and selected 8 voice recordings from the list. The recordings provide evidence that transmission system operators issued directives in a clear, concise, definitive manner and required the recipient of the directives to repeat the information back correctly when implementing switching orders as required by COM-002-2 R2. Therefore, MRO determined that LES was compliant with Reliability Standard COM-002-2 R2 as of June 27, 2008.

For the first violation of FAC-003-1 R2, LES provided a copy of its TVMP, effective March 27, 2008. MRO's review of the LES TVMP verified that the program document includes consideration for anticipated growth rates of vegetation and the time it takes to obtain permits or permissions to conduct the vegetation management work as required by FAC-003-1 R2. MRO determined that the program deficiency identified in this violation was mitigated as of March 27, 2008.

For the second violation of FAC-003-1 R2, LES provided a copy of its updated TVMP, effective July 14, 2008, which reflects LES' current practices associated with bi-monthly aerial high voltage transmission patrols. Upon MRO's request, LES provided a copy of its transmission line patrol and maintenance reports which took place in 2008. MRO determined that the transmission line patrol report demonstrated that the required patrols identified in the current LES TVMP were completed in 2008. Additionally, MRO verified that all required elements of R2 were addressed in the July 14, 2008 TVMP. Therefore, MRO determined that LES was fully compliant with Reliability Standard FAC-003-1 R2 as of July 14, 2008.

## Statement Describing the Proposed Penalty, Sanction or Enforcement Action Imposed

### Basis for Determination

Taking into consideration the Commission's directions in Order No. 693, the NERC Sanction Guidelines, and the Commission's July 3, 2008 Guidance Order,<sup>8</sup> the NERC BOTCC reviewed the Settlement Agreement and supporting documentation on June 10, 2009. The NERC BOTCC approved the Settlement Agreement, including MRO's imposition of a financial penalty of \$50,000 against LES and other actions to promote prospective 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 alleged violation at issue.

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

1. MRO's conclusion that the alleged violations were not violations that put bulk power system reliability at serious or substantial risk based on the following. With respect to the COM-002-2 violation, LES's transmission operating area is limited to 55 miles and LES immediately changed its communication protocol and notified all transmission system operators of this change on June 27, 2008. With respect to the FAC-003-1 R2 violations, LES was maintaining a TVMP and conducting regularly scheduled patrols and has not experienced any vegetation contacts;
2. LES had no prior violation of COM-002-2 R2 or FAC-003-1 R2;
3. LES mitigated the violation of COM-002-2 R2 on June 27, 2008, the same day the Compliance Audit was concluded, and before MRO had completed and issued its Compliance Audit Report on July 2, 2008;
4. LES was conducting the annual vegetation patrols required by FAC-003-1 R2 and has not experienced any vegetation contacts; and
5. LES fully cooperated with MRO by willingly discussing and providing additional information regarding the alleged violations in a timely manner.

For the foregoing reasons, the NERC BOTCC approves the Settlement Agreement and finds that the proposed fifty thousand dollar (\$50,000) financial penalty is appropriate for the violations and circumstances in question, and is consistent with NERC's goal to promote and ensure reliability of the bulk power system.

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.

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<sup>8</sup> *North American Electric Reliability Corporation*, "Guidance Order on Reliability Notices of Penalty," 124 FERC ¶ 61,015 (2008).

### **Attachments to be Included as Part of the Notice of Penalty**

The attachments to be included as part of this Notice of Penalty are the following documents and material:

- a) Compliance Audit Report – Public Version dated July 2, 2008, included as Attachment a;
- b) Settlement Agreement by and between LES and MRO, executed April 21, 2009, included as Attachment b;
- c) LES' Mitigation Plans designated as MIT-08-1362, MIT-08-1363, and MIT-08-1364 submitted December 29, 2008, included as Attachment c;
- d) LES' Certification of Completion of the Mitigation Plans dated January 12, 2009, included as Attachment d; and
- e) MRO's Verification of Completion of the Mitigation Plans dated February 25, 2009, included as Attachment e.

### **A Form of Notice Suitable for Publication<sup>9</sup>**

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

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<sup>9</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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\*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,

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cc: Lincoln Electric System  
Midwest Reliability Organization

Attachments

## **Attachment a**

# **Compliance Audit Report – Public Version, dated July 2, 2008**



# **Compliance Audit Report Public Version**

**Confidential Information  
(Including Privileged and Critical Energy Infrastructure Information)  
Has Been Removed**

**Lincoln Electric System (LES)  
NCR 01001  
June 25-27, 2008**

**July 2, 2008**

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## Executive Summary

The Midwest Reliability Organization (MRO) conducted a compliance audit of Lincoln Electric System (LES) as a part of its normal three year cycle. Review of documentation submitted by LES began at the MRO offices on June 11, 2008. The team conducted an on site audit June 25-27, 2008 in Lincoln, Nebraska. The audit team consisted of three MRO staff members, one MRO observer, and one NERC observer.

The North American Electric Reliability Corporation (NERC) has designated a subset of Reliability Standards for active compliance monitoring and reporting by the Regional Entities in their 2008 implementation plan. NERC has identified 62 standards as “actively monitored” which contain 294 requirements. These compliance audits focus on the period from June 18, 2007 to the audit date.

LES is registered with the MRO as responsible for 11 functions. As a result of this registration and for this audit, LES is responsible for meeting compliance with 50 Reliability Standards which contain 187 requirements. LES is found to be in full compliance with 182 requirements. An additional eight standards and their requirements were monitored as a part of the 2007 Critical Infrastructure Protection (CIP) survey. In July 2008, a special CIP self-certification will be conducted for all Registrants. Five alleged violations of requirements were identified during the course of the 2008 Compliance Audit.

As a part of the audit process, LES completed an Audit Questionnaire and provided the MRO with supporting documentation prior to the on site portion of the audit. On average, for every hour spent on site with the entity, the MRO staff spends three to four hours in the MRO office evaluating the submitted documents. Upon completion of the initial review of evidence, the audit team requested additional documentation and identified the subject matter experts to be interviewed. The original schedule of one and a half days on site was extended by one day in order to complete the review of additional evidence as requested.

Once on site, the LES staff was found to be cordial, willing to clarify any questions and, when needed, directed the audit team to the correct supporting documentation. The subject matter experts were open with their responses and were cooperative throughout the process. However, during the interviews, it appeared primary compliance contact had prepared and submitted evidence without the participation of the SMEs.

This audit report includes detailed findings for the possible compliance violations. This information will be used to help determine the severity level of sanctions and penalties. The possible compliance violations will be processed through the NERC Compliance Monitoring and Enforcement Program, implemented by the MRO.

## Audit Process

The LES Compliance Audit was conducted as a part of its normal three year cycle. The 2008 Compliance Program consists of 54 actively monitored Standards. Seven of these Standards were deemed not applicable, all of which are related directly to the Reliability Coordinator function. Documentation was viewed for the past 12 months.

The compliance audit process steps are detailed in the NERC Compliance Monitoring and Enforcement Plan (CMEP). The NERC CMEP generally conforms to the United States Government Accountability Office Government Auditing Standards and other generally accepted audit practices.

### **Objectives**

All Registered Entities are subject to audit for compliance with all reliability standards applicable to the functions for which the Registered Entity is registered.<sup>1</sup> The audit objectives are:

- Independently review LES's compliance with the requirements of the reliability standards that are applicable to LES based on the LES's registered functions.
- Validate compliance with applicable reliability standards from the NERC 2008 Implementation Plan list of actively monitored standards.
- Validate evidence of self-reported violations and previous self-certifications, confirm compliance with other requirements of the reliability standard, and review the status of associated mitigation plans.
- Review compliance of the MRO Standard MBAL-002, Operating Reserves-Spinning

### **Scope**

The LES Compliance Audit was conducted as a part of its normal three year cycle. The audit was conducted under the guidelines of the 2008 CMEP. All applicable NERC and MRO standards were reviewed during this audit. The audit team reviewed supporting documentation for the past 12 months.

### **Confidentiality and Conflict of Interest**

Confidentiality agreements and code of conduct documentation for the NERC representative and regional entity staff were available to the audited entity in advance of the audit. Work history and conflict of interest forms submitted by each audit team member were available to the audited entity if requested. The audited entity was given an opportunity to object to an audit team member on the basis of a possible conflict of interest or the existence of other circumstances that

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<sup>1</sup> North American Electric Reliability Corporation CMEP, paragraph 3.1, Compliance Audits

could interfere with the audit team member's impartial performance of duties. The audited entity accepted the audit team member participants with no objections.

### ***On-site Audit***

LES was given the opportunity to present a company overview. The MRO presented a high level overview of the status of the compliance audit.

The auditor code of conduct was reviewed. MRO staff must adhere to confidentiality as required through the NERC Delegation Agreement. NERC staff has their own Code of Conduct. MRO staff requested LES's cooperation in complying with the following guidelines:

- MRO must be billed for all meals and snacks
- Auditors may not fraternize with employees of LES during breaks and outside of work during the period of the audit
- Audit team members may not accept gifts, regardless of value.

### ***Methodology***

Audit criteria included standards, measures, and expectations based on best practices. The criteria were objective, measurable, complete and relevant to the objectives. The audit team accepted and was not limited to policies, procedures, screen-prints of EMS, copies of operator logs, audio clips, and correspondence. If needed, additional supporting documentation or clarification was requested.

The Audit team used the Reliability Standards Auditor Worksheets (RSAW) to review each reliability standard during the compliance audit. This is done to ensure consistency and fairness during each compliance audit.

### ***Audit Overview***

In September 2007, the MRO scheduled LES to receive an on site compliance audit June 25-26, 2008 as a part of their normal three year cycle. On April 18, 2008 the MRO sent LES the audit package which included *the On-Site Notification, Pre-Audit Survey, Procedures for Conducting an Audit, Subject Matter Experts Spreadsheet, Preparing for Compliance and Compliance Audit* and the *2008 MRO Audit Questionnaire*. Additionally, a questionnaire was sent to the Midwest ISO as the Reliability Coordinator.

### ***Audit***

Two weeks prior to the audit team site visit, LES supplied MRO with approximately 50% of supporting documentation needed to demonstrate compliance. MRO staff reviewed this documentation in the MRO offices. The compliance staff utilized the NERC Standards and the RSAW while reviewing the supporting documents and the Audit Questionnaire response provided by LES.

After evaluation of the supporting documentation, a set of questions was developed to be posed to subject matter experts at LES and missing supporting evidence was identified. Once on site, the team of auditors was able to review the necessary documents and conduct interviews of the subject matter experts. These interviews, in conjunction with supporting evidence, provided the audit team with a basis for professional judgment when validating compliance with reliability standards. Subject matter experts for the following standards were requested to be available: BAL-001, 002, 003, 004, 005, 006, COM-001, EOP-002, 003, 004, 005, 008, 009, FAC-003, INT-001, 004, PER-002, PRC-004, 005, 008, TOP-002, 003, 004, TPL-001, 002, 003, 004, and VAR-002.

The operations staff was also interviewed to verify documentation and tools to conduct their job responsibilities were available to them at all times.

### ***Exit Briefing***

Upon completion of the audit process, the MRO presented LES staff with the exit PowerPoint presentation. This presentation covered the future activities needed to complete the audit process, and the audit findings.

Due to the nature of the MRO compliance audits starting at the MRO office, the MRO has the supporting documentation needed as evidence for the alleged violations. All documentation is stored at the MRO office in a fire proof locked cabinet.

### ***Company Profile***

The Lincoln Electric System (LES) is a not for profit, municipally owned utility. LES services approximately 200 square miles within Lancaster County in Nebraska, including the cities of Lincoln, Prairie Home, Waverly, Walton, Cheney and Emerald. LES has 450 employees to serve their 108,000 residential customers and 15,000 commercial and industrial customers. LES's peak system load was recorded on July 19, 2006 at 779 MW.

The Midwest Reliability Organization (MRO) is LES's Regional Entity and the Midwest ISO is LES's Reliability Coordinator via a delegation agreement with the Mid-Continent Area Power Pool (MAPP). LES is registered in the MRO as the following NERC Functional Entities: Balancing Authority, Distribution Provider, Generation Owner, Generation Operator, Load Serving Entity, Purchase Selling Entity, Resource Planner, Transmission Owner, Transmission Operator, Transmission Service Provider, and Transmission Planner. There are no other NERC functional entities within LES's footprint.

LES has a total of eight interconnection points as of June 2008. There are three voltage levels above distribution voltage levels used on the LES system: 345kV, 161kV, and 115kV.

LES owns and operates seven dual fuel (natural gas/fuel oil) combustion turbines along with two wind turbines and a steam driven turbine. LES also has partial ownership of two coal units outside of its footprint for a total owned capacity of 676 MW. LES also has purchasing agreements with additional coal and hydro units for an additional capacity of 314 MW.



**Audit Specifics**

The compliance audit commenced June 11, 2008 in the MRO office, the on site portion of the audit was conducted on June 25-27, 2008 at the Lincoln Electric System office in Lincoln, Nebraska.

**Audit Team**

<b>Audit Team Role</b>	<b>Title</b>	<b>Company</b>
Lead	Compliance Audit Manager	MRO
Member	Engineer	MRO
Member	Compliance Audit Manager	MRO
Observer	Engineer	MRO
Observer	Regional Compliance Coordinator	NERC

**LES Audit Participants**

<b>Title</b>	<b>LES Organization</b>
Supervisor	System Energy Management
IT Administrator	EMS SCADA Support
IT Administrator	EMS SCADA Support
Engineer III	System Protection
Engineer II	Regulatory
Manager	System Operations
Supervisor	Telecomm
Supervisor	System Control
Manager	Resource & Transmission Planning
Sr. Engineer	R & T Planning
Coordinator	System Energy Management
Asst. Supervisor	System Control
Sr. Dispatcher	System Control
System Operator	System Energy Management
Supervisor	System & Protection Controls
Supervisor	Substation Operations and Maint.
Manager	Vegetation Management
Supervisor	Rokeyby Generation Station

## Audit Results

- LES provided the audit team with supporting documentation for review prior to the on-site visit. The team received approximately 50% of the supporting documentation needed for evidence. The audit team spent the two weeks prior to the on-site visit reviewing the supplied documentation. As a result of reviewing this evidence, the audit team developed questions for the subject matter experts and a list of additional required documentation.
- LES provided a number of the requested additional documents prior to the on-site visit and the remaining documents were supplied during the subject matter expert interviews.
- The audit team randomly selected facilities to be reviewed and operator records to be reviewed through the use of a random sample generator. Once these facilities or operators were identified LES provided the appropriate documentation as evidence of work completed. Decisions were made during the overall assessment of evidence, including assessment of whether the information was sufficient and appropriate.
- LES personnel were allowed to speak freely without interruption from management during the subject matter expert interviews and the operator interviews.
- The Primary Compliance Contact was active in most interviews. During the interview process it appeared LES did not prepare all the subject matter experts for the compliance process. Some Subject Matter Experts (SMEs) mentioned that they were not aware of what the auditors were looking for or they were not aware of the LES responses to the audit questionnaire.
- The Midwest ISO RC responded to the questionnaire sent out regarding the LES relationship with the RC. The Midwest ISO RC responded positively to LES compliance with RC directives and interaction.
- The audit team utilized the Reliability Standard Auditor Worksheets (RSAW) in order to assess compliance of the reliability standards. The primary questions of the subject matters were documented in addition to the requests for additional evidence.
- Requests were made to review older versions of documents when the newer document had revision or created dates after June 18, 2007. LES was able to provide these documents.
- One prior violation of CIP-001-1 was self reported in 2007. This standard and mitigation plan was reviewed again during the audit. Compliance was confirmed again and discussed during the exit presentation.
- The VP of Power Supply and the VP of Energy Delivery were present for the exit presentation as well as all of the SME department managers. The findings of the audit were shared during the presentation including the five alleged violations.

Confidential Information  
(Including Privileged and Critical Energy Infrastructure Information)  
Has Been Removed

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**Findings**

<b>Standard Requirement</b>	<b>Compliant</b>
BAL-001-0 R1	Yes
BAL-001-0 R2	Yes
BAL-001-0 R3	Yes
BAL-001-0 R4	Yes
BAL-002-0 R1	Yes
BAL-002-0 R3	Yes
BAL-002-0 R4	Yes
BAL-002-0 R6	Yes
BAL-003-0 R1	Yes
BAL-003-0 R2	Yes
BAL-003-0 R3	Yes
BAL-003-0 R4	Yes
BAL-003-0 R5	Yes
BAL-003-0 R6	Yes
BAL-004-0 R3	Yes
BAL-004-0 R4	Yes
BAL-005-0 R1	Yes
BAL-005-0 R2	Yes
BAL-005-0 R3	Yes
BAL-005-0 R4	Yes
BAL-005-0 R5	Yes
BAL-005-0 R6	Yes
BAL-005-0 R7	Yes
BAL-005-0 R8	Yes
BAL-005-0 R9	Yes
BAL-005-0 R10	Yes
BAL-005-0 R11	Yes
BAL-005-0 R12	Yes
BAL-005-0 R13	Yes
BAL-005-0 R14	Yes
BAL-005-0 R15	Yes
BAL-005-0 R16	Yes
BAL-005-0 R17	Yes
BAL-006-1 R1	Yes
BAL-006-1 R2	Yes
BAL-006-1 R3	Yes
BAL-006-1 R4	Yes
BAL-006-1 R5	Yes
CIP-001-1 R1	Yes
CIP-001-1 R2	Yes
CIP-001-1 R3	Yes
CIP-001-1 R4	Yes
COM-001-1 R2	Yes
COM-001-1 R5	Yes
COM-002-2 R1	Yes
COM-002-2 R2	No

Confidential Information  
(Including Privileged and Critical Energy Infrastructure Information)  
Has Been Removed

Standard Requirement	Compliant
EOP-001-0 R1	Yes
EOP-001-0 R2	Yes
EOP-001-0 R3	Yes
EOP-001-0 R4	Yes
EOP-001-0 R5	Yes
EOP-001-0 R6	Yes
EOP-001-0 R7	Yes
EOP-002-2 R1	Yes
EOP-002-2 R2	Yes
EOP-002-2 R3	Yes
EOP-002-2 R4	Yes
EOP-002-2 R5	Yes
EOP-002-2 R6	Yes
EOP-002-2 R7	Yes
EOP-002-2 R9	Yes
EOP-003-1 R1	Yes
EOP-003-1 R2	Yes
EOP-003-1 R3	Yes
EOP-003-1 R4	Yes
EOP-003-1 R5	Yes
EOP-003-1 R6	Yes
EOP-003-1 R7	Yes
EOP-003-1 R8	Yes
EOP-004-1 R2	Yes
EOP-004-1 R3	Yes
EOP-005-1 R1	Yes
EOP-005-1 R2	Yes
EOP-005-1 R3	Yes
EOP-005-1 R4	Yes
EOP-005-1 R5	Yes
EOP-005-1 R6	Yes
EOP-005-1 R7	Yes
EOP-005-1 R8	Yes
EOP-005-1 R9	Yes
EOP-005-1 R10	Yes
EOP-005-1 R11	Yes
EOP-008-0 R1	Yes
EOP-009-0 R1	Yes
EOP-009-0 R2	Yes
FAC-003-0 R1	No
FAC-003-0 R2	No
FAC-003-0 R3	Yes
FAC-008-1 R1	Yes
FAC-008-1 R2	Yes
FAC-008-1 R3	Yes
FAC-009-1 R1	Yes
FAC-009-1 R2	Yes
INT-001-2 R1	Yes
INT-001-2 R2	Yes
INT-003-2 R1	Yes
INT-004-1 R1	Yes

Confidential Information  
(Including Privileged and Critical Energy Infrastructure Information)  
Has Been Removed

Standard Requirement	Compliant
INT-004-1 R2	Yes
IRO-001-1 R8	Yes
IRO-004-1 R4	Yes
IRO-004-1 R7	Yes
IRO-005-1 R12	Yes
IRO-005-1 R13	Yes
IRO-005-1 R8	Yes
IRO-006-3 R6	Yes
MBAL-002-0 R1	Yes
PER-002-0 R1	Yes
PER-002-0 R2	Yes
PER-002-0 R3	No
PER-002-0 R4	Yes
PER-003-0 R1	Yes
PRC-004-1 R1	Yes
PRC-004-1 R2	Yes
PRC-004-1 R3	Yes
PRC-005-1 R1	Yes
PRC-005-1 R2	Yes
PRC-008-0 R1	Yes
PRC-008-0 R2	Yes
PRC-010-0 R1	Yes
PRC-010-0 R2	Yes
PRC-011-0 R1	Yes
PRC-011-0 R2	Yes
PRC-016-0 R1	Yes
PRC-016-0 R2	Yes
PRC-016-0 R3	Yes
PRC-017-0 R1	Yes
PRC-017-0 R2	Yes
PRC-021-1 R1	Yes
PRC-021-1 R2	Yes
TOP-002-2 R1	Yes
TOP-002-2 R2	Yes
TOP-002-2 R3	Yes
TOP-002-2 R4	Yes
TOP-002-2 R5	Yes
TOP-002-2 R6	Yes
TOP-002-2 R7	Yes
TOP-002-2 R8	Yes
TOP-002-2 R9	Yes
TOP-002-2 R10	Yes
TOP-002-2 R11	Yes
TOP-002-2 R12	Yes
TOP-002-2 R13	Yes
TOP-002-2 R14	Yes
TOP-002-2 R15	Yes
TOP-002-2 R16	Yes
TOP-002-2 R17	Yes
TOP-002-2 R18	Yes
TOP-002-2 R19	Yes

Confidential Information  
(Including Privileged and Critical Energy Infrastructure Information)  
Has Been Removed

Standard Requirement	Compliant
TOP-003-0 R1	Yes
TOP-003-0 R2	Yes
TOP-003-0 R3	Yes
TOP-004-1 R6	Yes
TOP-005-1 R1	Yes
TOP-005-1 R3	Yes
TOP-005-1 R4	Yes
TOP-007-0 R1	Yes
TOP-007-0 R2	Yes
TOP-007-0 R3	Yes
TPL-001-0 R1	Yes
TPL-001-0 R2	Yes
TPL-001-0 R3	Yes
TPL-002-0 R1	Yes
TPL-002-0 R2	Yes
TPL-002-0 R3	Yes
TPL-003-0 R1	Yes
TPL-003-0 R2	Yes
TPL-003-0 R3	Yes
TPL-004-0 R1	Yes
TPL-004-0 R2	Yes
VAR-001-1 R1	Yes
VAR-001-1 R10	Yes
VAR-001-1 R11	Yes
VAR-001-1 R12	Yes
VAR-001-1 R2	Yes
VAR-001-1 R3	Yes
VAR-001-1 R4	Yes
VAR-001-1 R5	Yes
VAR-001-1 R6	Yes
VAR-001-1 R7	Yes
VAR-001-1 R8	Yes
VAR-001-1 R9	Yes
VAR-002-1 R1	Yes
VAR-002-1 R2	Yes
VAR-002-1 R3	Yes
VAR-002-1 R4	Yes
VAR-002-1 R5	Yes

**Compliance Culture**

The LES compliance culture was not reviewed by the audit team. The Regional Entity compliance staff will review the LES compliance culture.

## **Attachment b**

# **Settlement Agreement by and between LES and MRO, executed April 21, 2009**

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**SETTLEMENT AGREEMENT  
OF  
MIDWEST RELIABILITY ORGANIZATION  
AND  
LINCOLN ELECTRIC SYSTEM**

**I. Introduction**

1. MIDWEST RELIABILITY ORGANIZATION ("MRO") and LINCOLN ELECTRIC SYSTEM ("LES") (NERC Compliance Registry ID# 01001) enter into this Settlement Agreement ("Agreement") to resolve all outstanding issues arising from a preliminary and non-public assessment resulting in MRO'S determination and findings, pursuant to the North American Electric Reliability Corporation ("NERC") Rules of Procedure, of violations by LES of the NERC Reliability Standards COM-002-2, Requirement 2 and FAC-003-1, Requirement 2.

**II. Stipulation**

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

**Background**

3. LES is a publicly owned power utility servicing approximately 200 square miles within Lancaster County in Nebraska, including the cities of Lincoln, Prairie Home, Waverly, Walton, Cheney, and Emerald. LES has more than 108,000 residential customers and 15,000 commercial and industrial customers.
4. LES owns and operates seven dual fuel (natural gas/fuel oil) combustion turbines along with two wind turbines and a steam driven turbine. LES has partial ownership of two coal units outside of its footprint for a total owned capacity of 724 MW. LES also has purchasing agreements with other coal and hydro units for an additional capacity of 314 MW.

**Alleged Violations**

5. On June 16, 2008, LES was listed in the NERC Compliance Registry for the following functions: Transmission Owner, Load Serving Entity, Resource Planner, Generator Owner, Distribution Provider,



Transmission Operator, Balancing Authority, Purchasing-Selling Entity, Generator Operator, Transmission Service Provider, and Transmission Planner. MRO determined therefore, that LES was subject to the Requirements of NERC Reliability Standards COM-002-2, R2 and FAC-003-1, R2.

6. On June 16 through June 27, 2008, MRO conducted a scheduled Compliance Audit of LES. As a result of the Compliance Audit, MRO assessed LES as non-compliant with Reliability Standards COM-002-2, R2 and FAC-003-1, R2.
7. MRO confirmed that LES was listed on the NERC Compliance Registry as a Transmission Operator and Balancing Authority and that LES was therefore subject to the Requirements of NERC Reliability Standard COM-002-2, R2. Additionally, MRO staff confirmed that LES was listed on the NERC Compliance Registry as a Transmission Owner and that LES was therefore subject to the Requirements of NERC Reliability Standard FAC-003-1, R2.
  - i. Reliability Standard COM-002-2 ensures that Balancing Authorities, Transmission Operators, and Generator Operators have adequate communications and that those communications capabilities are staffed and available for addressing a real-time emergency condition. Requirement 2 of the Standard provides that each Transmission Operator and Balancing Authority shall issue directives in a clear, concise, and definitive manner; shall ensure the recipient of the directive repeats the information back correctly; and shall acknowledge the response as correct or repeat the original statement to resolve any misunderstandings.
  - ii. Reliability Standard FAC-003-1 improves the reliability of the electric transmission system by preventing outages from vegetation located on transmission rights-of-way and minimizing outages from vegetation located adjacent to rights-of-way, and reporting vegetation-related outages of the transmission systems to the Regional Reliability Organizations and NERC. Requirement 2 of the Standard provides that the Transmission Owner shall create and implement an annual plan for vegetation management work to ensure the reliability of the system. The plan shall describe the methods used, such as manual clearing, mechanical clearing, herbicide treatment, or other actions. The plan should be flexible enough to adjust to changing conditions, taking into consideration anticipated growth of vegetation and all other environmental factors that may have an impact on the reliability of the transmission systems. Adjustments to the plan shall be documented as they occur. The plan should take into consideration the time required to obtain permissions or permits

from landowners or regulatory authorities. Each Transmission Owner shall have systems and procedures for documenting and tracking the planned vegetation management work and ensuring that the vegetation management work was completed according to work specifications.

8. MRO staff reviewed the findings of the audit team, conducted telephone and email discussions with LES, reviewed and evaluated LES's documentation and recordings. MRO concluded that LES had failed to repeat directives or acknowledge the response as correct and, on at least one occasion, LES failed to provide clear, concise and definitive switching orders as required by Reliability Standard COM-002-2, R2.
9. MRO staff reviewed the findings of the audit team and evaluated the LES Transmission Vegetation Management Program (TVMP) in effect from July 1, 2007 through March 26, 2008. MRO determined that the TVMP did not take into consideration anticipated growth rates of vegetation or the time it takes to obtain permissions or permits to conduct the vegetation management work as required by Reliability Standard FAC-003-1, R2.
10. MRO staff also reviewed the findings of the audit team and evaluated the LES Transmission Vegetation Management Program (TVMP) with an effective date of March 27, 2008. MRO determined that LES was non-compliant with Reliability Standard FAC-003-1, R2, because the TVMP required bi-monthly aerial patrols and LES was not able to provide any evidence of these patrols in 2008. Therefore, LES was not able to demonstrate that its vegetation management work was completed according to the work specifications.
11. On October 24, 2008, MRO issued a Notice of Alleged Violation and Proposed Penalty or Sanction for these violations, identified as NERC Identification Tracking Number MRO200800052, MRO200800054 and MRO200800055.
12. Upon review of the evidence, MRO determined that the violation of COM-002-2, R2 began on June 18, 2007, the mandatory and effective date of the NERC Reliability Standard and continued until June 27, 2008 when LES changed its internal protocol. LES issued written instructions to all personnel requiring repeating and acknowledging directives. Therefore, the duration of the violation was 375 days.
13. Also upon review of the evidence, MRO determined that the first violation of FAC-003-1, R2 began on July 1, 2007, the effective date of the TVMP and continued until March 26, 2008, as a revised TVMP became effective on March 27, 2008. Therefore, the duration of the violation was 269 days.

14. Finally, upon review of the evidence, MRO determined that a second violation of FAC-003-1, R2 began on March 27, 2008, the effective date of the TVMP that required bi-monthly patrols, and continued until July 13, 2008, when a revised TVMP with an effective date of July 14, 2008 was implemented. Therefore, the duration of the violation was 108 days.
15. In assessing the proposed penalty and sanctions associated with the violation of COM-002-2, R2, MRO considered the prompt response of LES to correct and mitigate the alleged violation, even before the Compliance Audit Report was completed. MRO determined that LES had a non-compliant communications protocol and followed its own internal protocols which did not meet the requirements for compliance with the Standard. Upon learning of the deficiency, LES quickly changed its internal protocol and implemented a process to ensure compliance with Reliability Standard COM-002-2, R2.
16. In assessing the proposed penalty and sanctions associated with the violations of FAC-003-1, R2, MRO determined that under its original TVMP, LES was conducting inspections according to a documented plan, but that the plan did not take into consideration anticipated growth rates of vegetation or the time it takes to obtain permissions or permits to conduct the vegetation management work. MRO further concluded that the revised TVMP effective March 27, 2008, was fully compliant with FAC-003-1, R2. However, MRO determined that although LES was conducting annual inspections according to a documented plan, LES did not complete the bi-monthly aerial patrols required by its documented plan which became effective March 27, 2008. LES provided evidence of a contract with an entity to perform the bi-monthly aerial patrols, but LES did not have mechanisms in place to assure performance under the contract. MRO confirmed that there were no vegetation contacts either during the time the TVMP was non-compliant or during the time that the TVMP required bi-monthly aerial patrols were not conducted.
17. On October 27, 2008, LES requested the commencement of settlement discussions to resolve the allegations of the subject violations.

### **III. PARTIES' SEPARATE REPRESENTATIONS**

#### **STATEMENT OF MRO AND SUMMARY OF FINDINGS**

18. On June 16 through June 27, 2008, MRO conducted a scheduled Compliance Audit, both at its offices and on-site at the LES headquarters. LES was audited as a Balancing Authority, Distribution Provider, Generation Owner, Generation Operator, Load Serving Entity, Purchase Selling Entity, Resource Planner, Transmission Owner, Transmission Operator, Transmission Service Provider, and

Transmission Planner. MRO staff conducted a compliance assessment resulting in the following facts and conclusions:

- i. With regard to Reliability Standard COM-002-2, R2, MRO staff reviewed voice recordings for two specific dates, April 14, 2008 and April 28, 2008. Upon review of the voice recordings, MRO discovered the LES personnel involved with transmission switching did not repeat back directives to the transmission system operator. MRO further reviewed taped phone conversations that did not include a repeat of directives and also contained examples of misunderstandings and lack of verification that steps in the switching order had been completed. In other examples, lines and equipment were removed from service and the receiver of this information did not repeat back the information to verify a complete understanding of the switching order.

During the course of reviewing the evidence, MRO also discovered an instance where an LES switchman called the control center operator in order to report the switching time information. During the conversation, the switchman informed the operator of a correction made to the switching sequence that had just been completed. During the switching process, the switchman realized the switching sequence could not be completed as documented in the switching order. Without contacting the control center operator, the switchman changed and implemented a new switching sequence.

MRO staff confirmed that LES had failed to repeat directives or acknowledge the response as correct and, on at least one occasion, LES failed to provide clear, concise and definitive switching orders as required by Reliability Standard COM-002-2, R2.

- ii. With regard to Reliability Standard FAC-003-1, R2, MRO determined that the Transmission Vegetation Management Program (TVMP) in effect from July 1, 2007 through March 26, 2008, did not take into consideration anticipated growth rates of vegetation or the time it takes to obtain permissions or permits to conduct the vegetation management work. The revised TVMP that became effective March 27, 2008, considered anticipated growth rates of vegetation and the time it takes to obtain permissions or permits to conduct the vegetation management work as required by Reliability Standard FAC-003-1, R2.

However, MRO determined that LES was non-compliant with the requirements in the revised TVMP, which became effective

March 27, 2008. The revised TVMP required bi-monthly aerial patrols and there was no evidence of these patrols in 2008. Therefore, MRO determined that LES was not completing its vegetation management work according to work specifications as required by Reliability Standard FAC-003-1, R2.

19. MRO agrees that this Settlement Agreement is in the best interest of the parties and in the best interest of Bulk Power System reliability.

#### **STATEMENT OF LES**

20. LES admits that the facts set forth and agreed to by the parties for purposes of this Agreement constitute violations of Reliability Standards COM-002-2, R2 and FAC-003-1, R2.
21. LES agrees to the alleged violations of Reliability Standards COM-002-2, R2 and FAC-003-1, R2. LES has agreed to enter into this Settlement Agreement with MRO to avoid extended litigation with respect to the matters described or referred to herein, to avoid uncertainty, and to effectuate a complete and final resolution of the issues set forth herein. LES 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**

22. For purposes of settling any and all disputes arising from MRO's assessment into the matters discovered during the Compliance Audit of LES, MRO and LES agree that on and after the effective date of this Agreement, LES shall take the following action:
- i. LES shall pay a monetary penalty of **\$50,000.00** to MRO, via wire transfer to an MRO account that will be outlined in an invoice sent to LES within twenty days after the Agreement is either approved by the Commission or is rendered effective by operation of law. Payment of this invoice shall be made within twenty days after the receipt of the invoice, and MRO shall notify NERC if the payment is not received.
23. MRO determined that the single, aggregate penalty amount of \$50,000 bears a reasonable relation to the seriousness and duration of the violations and takes into consideration the prompt and effective actions taken by LES to quickly mitigate these violations. LES demonstrated its commitment to compliance through its actions to mitigate the alleged violations.
- i. With regard to Reliability Standard COM-002-2, R2, LES mitigated the alleged violation on June 27, 2008, the same day the Compliance Audit was concluded, and before MRO had

completed and issued its Compliance Audit Report on July 2, 2008.

- ii. With regard to Reliability Standard FAC-003-1, R2, LES was conducting the required annual patrols and did not experience any vegetation contacts during the time of non-compliance. Moreover, LES mitigated the concerns and had a fully compliant TVMP with which LES was completing its vegetation management work according to the work specifications within 3 weeks of the Compliance Audit.

Furthermore, based on LES's cooperation, demonstrated commitment to compliance, and agreement to expeditiously resolve these matters via settlement, MRO assessed the total penalty of \$50,000.

24. Additionally, LES has taken the following actions to prevent recurrence of these violations and increase the reliability of the bulk power system:

- i. With regard to Reliability Standard COM-002-2, R2, immediately following the on-site Compliance Audit, LES implemented a revised internal protocol. LES issued a memorandum on June 27, 2008 to the Transmission Operators instructing them to provide clear directives with the switchman repeating the instructions back when implementing High Voltage Switching Orders.

To verify that this action mitigated the alleged violation of Reliability Standard COM-002-2, R2, MRO requested LES provide a list of all high voltage switching orders implemented between June 28, and December 31, 2008. Upon receiving the list of all high voltage switching orders during this timeframe, MRO used a random sampling process and selected 8 voice recordings from the list. LES immediately provided the requested voice recordings for MRO's review and evaluation. MRO determined that the recordings evidence the Transmission Operators issued directives in a clear, concise, definitive manner and required the recipient for the directives to repeat the information back correctly when implementing switching orders as required by COM-002-2, R2.

- ii. With regard to Reliability Standard FAC-003-1, R2, LES has revised its Transmission Vegetation Management Plan, effective July 14, 2008. MRO determined that this TVMP describes the methods used to conduct the annual patrols, takes into consideration anticipated growth rates, and also considers the time required to obtain permissions or permits to complete the work.

To demonstrate compliance, LES provided its revised TVMP with an effective date of July 14, 2008, and its transmission line patrol and maintenance reports for the year 2008. MRO determined that the transmission line patrol report demonstrates that the required patrols identified in the current LES TVMP were completed in 2008 according to the work specifications as required by Reliability Standard FAC-003-1, R2.

25. Failure to make a timely penalty payment or to comply with any of the terms and conditions agreed to herein, or any other conditions of this Settlement Agreement, shall be deemed to be either the same alleged violations that initiated this Settlement and/or additional violation(s) and may subject LES to new or additional enforcement, penalty or sanction actions in accordance with the NERC Rules of Procedure.
26. If LES does not make the monetary penalty payment above at the times agreed by the parties, interest payable to MRO 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**

27. 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 MRO or LES has been made to induce the signatories or any other party to enter into the Agreement.
28. The Regional Entity shall report the terms of all settlements of compliance matters to NERC. NERC will review the settlement for the purpose of evaluating its consistency with other settlements entered into for similar violations or under other, similar circumstances. Based on this review, NERC will either approve the settlement or reject the settlement and notify the Regional Entity and the Registered Entity of changes to the settlement that would result in approval. If NERC rejects the settlement, NERC will provide specific written reasons for such rejection and the Regional Entity will attempt to negotiate a revised settlement agreement with the Registered Entity including any changes to the settlement specified by NERC. If a settlement cannot be reached, the enforcement process shall continue to conclusion. If NERC approves the settlement, NERC will (i) report the approved settlement 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.

29. The Agreement will be submitted to the Commission and will be subject to Commission review pursuant to section 39.7 of the Commission's regulations.
30. This Agreement shall become effective upon NERC and 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.
31. LES agrees that this Agreement, when approved by NERC and the Commission, shall represent a final settlement of all matters set forth herein and LES waives its right to further hearings and appeal, unless and only to the extent that LES contends that any NERC or Commission action on the Agreement contains one or more material modifications to the Agreement. MRO reserves all rights to initiate enforcement, penalty or sanction actions against LES in accordance with the NERC Rules of Procedure in the event that LES fails to comply with the mitigation plan and compliance program agreed to in this Agreement. In the event LES fails to comply with any of the stipulations, remedies, sanctions or additional terms, as set forth in this Agreement, MRO will initiate enforcement, penalty, or sanction actions against LES to the maximum extent allowed by the NERC Rules of Procedure, up to the maximum statutorily allowed penalty. LES shall retain all rights to defend against such enforcement actions, also according to the NERC Rules of Procedure.
32. 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.
33. 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.
34. The Agreement may be signed in counterparts.
35. This Agreement is executed in duplicate, each of which so executed shall be deemed to be an original.

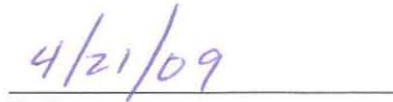
***Remainder of page intentionally blank.  
Signatures to be affixed to the following page.***



Agreed to and accepted:



Daniel P. Skaar  
President  
Midwest Reliability Organization



Date



Doug Bantam  
Vice President Power Supply Division  
Lincoln Electric System



Date

## **Attachment c**

**LES' Mitigation Plans designated as MIT-08-1362, MIT-08-1363 and MIT-08-1364, submitted December 29, 2008**



## **Mitigation Plan**

Mitigation Plan submitted on: **Dec 29, 2008**

Mitigation Plan Completed (Yes/No): **Yes**

Mitigation Plan Completed On: **Feb 17, 2009**

Midwest Reliability Organization



## **Section A: Compliance Notices**

• Section 6.2 of the NERC 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. This person may be the Registered Entity's point of contact described in Section B.

(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.

• This submittal form may be used to provide a required Mitigation Plan for review and approval by regional entity(ies) and NERC.

• The Mitigation Plan shall be submitted to the regional entity(ies) and NERC as confidential information in accordance with Section 1500 of the NERC Rules of Procedure.

• This Mitigation Plan form may be used to address one or more related alleged or confirmed violations of one Reliability Standard. A separate mitigation plan is required to address alleged or confirmed violations with respect to each additional Reliability Standard, as applicable.

1. "Uniform Compliance Monitoring and Enforcement Program of the North American Electric Reliability Corporation;" a copy of the current version approved by the Federal Energy Regulatory Commission is posted on NERC's website.



- 
- If the Mitigation Plan is accepted by regional entity(ies) 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.
  - Regional Entity(ies) or NERC may reject Mitigation Plans that they determine to be incomplete or inadequate.
  - Remedial action directives also may be issued as necessary to ensure reliability of the bulk power system.
  - The user has read and accepts the conditions set forth in these Compliance Notices.



---

**Section B: Registered Entity Information**

**B.1**

Identify your organization:

Entity Name: ***Lincoln Electric System***

Address: ***1040 "O" Street, PO Box 80869, Lincoln, Nebraska 68501-0869, United States***

NERC Compliance Registry ID: ***[If known] NCR01001***

**B.2**

Identify the individual in your organization who will serve as the Contact to Regional Entity regarding this Mitigation Plan. This person shall be technically knowledgeable regarding this Mitigation Plan and authorized to respond to Regional Entity regarding this Mitigation Plan.:

Name: ***Eric Ruskamp***

Title: ***Engineer II***

Email: ***eruskamp@les.com***

Phone: ***402-473-3387***



## **Section C: Identity of Reliability Standard Violation associated with this Mitigation Plan**

### **C.1**

This Mitigation Plan is associated with the following violation(s) of the reliability standard listed below:

Standard Requirement: **COM-002-2 R2**

Description: *Each Reliability Coordinator, Transmission Operator, and Balancing Authority shall issue directives in a clear, concise, and definitive manner; shall ensure the recipient of the directive repeats the information back correctly; and shall acknowledge the response as correct or repeat the original statement to resolve any misunderstandings.*

Violation Date: *Jun 27, 2008*

### **C.2**

Identify the cause of the violation(s) identified above:

*Per the MRO's 'Notice of Alleged Violation and Proposed Penalty or Sanction' document:*

*"Upon review of the voice recordings, MRO discovered the LES personnel involved with transmission switching do not repeat back directives to the transmission system operator."*

*This violation was identified in LES's June 25-27, 2008 Compliance Audit.*

### **C.3**

Provide any relevant information regarding the violations associated with this Mitigation Plan: *[If known]*



## **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 violation(s) identified above in Section C.1 of this form:

***LES modified its switching order procedures.***

### **Mitigation Plan Timeline and Milestones**

#### **D.2**

Provide the timetable for completion of the Mitigation Plan, including the completion date by which the Mitigation Plan will be fully implemented and the violations associated with this Mitigation Plan are corrected: ***Jun 27, 2008***

#### **D.3**

Milestone Activities, with completion dates, that your organization is proposing for this Mitigation Plan:

<b>Milestone Activity</b>	<b>*Proposed Completion Date (Shall not be greater than 3 months apart)</b>	<b>Actual Completion Date</b>
---------------------------	---	-------------------------------

(\*) Note: 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.

### **Additional Relevant Information (Optional)**

#### **D.4**

If you have any relevant additional information that you wish to include regarding the mitigation plan, milestones, milestones dates and completion date proposed above you may include it here:

***See attached 'Switching Order Execution memo.pdf'.***





## **Section E: Interim and Future Reliability Risk**

### **Abatement of Interim BPS Reliability Risk**

#### ***E.1***

While your organization is implementing the Mitigation Plan proposed in Section D of this form, the reliability of the Bulk Power System 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 or is proposing as part of the Mitigation Plan to mitigate any increased risk to the reliability of the bulk power system while the Mitigation Plan is being implemented:

***The Mitigation plan has already been completed.***

### **Prevention of Future BPS Reliability Risk**

#### ***E.2***

Describe how successful completion of the Mitigation Plan as laid out in Section D of this form will prevent or minimize the probability that your organization incurs further violations of the same or similar reliability standards requirements in the future:

***LES's new switching order procedures comply with the requirement. Having the LES operators follow the new procedures ensures future compliance with this requirement.***

#### ***E.3***

Your organization may be taking or planning other action, beyond that listed in the Mitigation Plan, as proposed in Section D.1, to prevent or minimize the probability of incurring further violations of the same or similar standards requirements listed in Section C.1, or of other reliability standards. If so, identify and describe any such action, including milestones and completion dates:



## **Section F: Authorization**

An authorized individual must sign and date the signature page. By doing so, this individual, on behalf of your organization:

- (a) Submits the Mitigation Plan, as laid out in Section D, to the Regional Entity for acceptance and approval by NERC, and
- (b) If applicable, certifies that the Mitigation Plan, as laid out in Section D of this form, was completed (i) as laid out in Section D of this form and (ii) on or before the date provided as the 'Date of Completion of the Mitigation Plan' on this form, and
- (c) Acknowledges:
  1. I am ***Vice President - Power Supply of Lincoln Electric System.***
  2. I am qualified to sign this Mitigation Plan on behalf of ***Lincoln Electric System.***
  3. I have read and understand ***Lincoln Electric System's*** obligations to comply with Mitigation Plan requirements and ERO remedial action directives as well as ERO documents, including, but not limited to, the NERC Rules of Procedure, including Appendix 4(C) (Compliance Monitoring and Enforcement Program of the 'North American Electric Reliability Corporation' (NERC CMEP) ).
  4. I have read and am familiar with the contents of the foregoing Mitigation Plan.
  5. ***Lincoln Electric System*** agrees to be bound by, and comply with, this Mitigation Plan, including the timetable completion date, as accepted by the Regional Entity and approved by NERC.

**Authorized Individual Signature** \_\_\_\_\_

(Electronic signature was received by the Regional Office via CDMS. For Electronic Signature Policy see CMEP.)

Name: ***Doug Bantam***

Title: ***Vice President - Power Supply***

Authorized On: ***Dec 29, 2008***



## **Mitigation Plan**

Mitigation Plan submitted on: **Dec 29, 2008**

Mitigation Plan Completed (Yes/No): **Yes**

Mitigation Plan Completed On: **Feb 17, 2009**

Midwest Reliability Organization



## Section A: Compliance Notices

• Section 6.2 of the NERC 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. This person may be the Registered Entity's point of contact described in Section B.

(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.

• This submittal form may be used to provide a required Mitigation Plan for review and approval by regional entity(ies) and NERC.

• The Mitigation Plan shall be submitted to the regional entity(ies) and NERC as confidential information in accordance with Section 1500 of the NERC Rules of Procedure.

• This Mitigation Plan form may be used to address one or more related alleged or confirmed violations of one Reliability Standard. A separate mitigation plan is required to address alleged or confirmed violations with respect to each additional Reliability Standard, as applicable.

1. 'Uniform Compliance Monitoring and Enforcement Program of the North American Electric Reliability Corporation,' a copy of the current version approved by the Federal Energy Regulatory Commission is posted on NERC's website.



- 
- If the Mitigation Plan is accepted by regional entity(ies) 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.
  - Regional Entity(ies) or NERC may reject Mitigation Plans that they determine to be incomplete or inadequate.
  - Remedial action directives also may be issued as necessary to ensure reliability of the bulk power system.
  - The user has read and accepts the conditions set forth in these Compliance Notices.



---

## **Section B: Registered Entity Information**

### **B.1**

Identify your organization:

Entity Name: *Lincoln Electric System*

Address: *1040 "O" Street, PO Box 80869, Lincoln, Nebraska 68501-0869, United States*

NERC Compliance Registry ID: *[If known] NCR01001*

### **B.2**

Identify the individual in your organization who will serve as the Contact to Regional Entity regarding this Mitigation Plan. This person shall be technically knowledgeable regarding this Mitigation Plan and authorized to respond to Regional Entity regarding this Mitigation Plan.:

Name: *Eric Ruskamp*

Title: *Engineer II*

Email: *eruskamp@les.com*

Phone: *402-473-3387*



## **Section C: Identity of Reliability Standard Violation associated with this Mitigation Plan**

### **C.1**

This Mitigation Plan is associated with the following violation(s) of the reliability standard listed below:

Standard Requirement: *FAC-003-1 R2*

Description: *The Transmission Owner shall create and implement an annual plan for vegetation management work to ensure the reliability of the system. The plan shall describe the methods used, such as manual clearing, mechanical clearing, herbicide treatment, or other actions. The plan should be flexible enough to adjust to changing conditions, taking into consideration anticipated growth of vegetation and all other environmental factors that may have an impact on the reliability of the transmission systems. Adjustments to the plan shall be documented as they occur. The plan should take into consideration the time required to obtain permissions or permits from landowners or regulatory authorities. Each Transmission Owner shall have systems and procedures for documenting and tracking the planned vegetation management work and ensuring that the vegetation management work was completed according to work specifications.*

Violation Date: *Jun 27, 2008*

### **C.2**

Identify the cause of the violation(s) identified above:

*Per the MRO's 'Notice of Alleged Violation and Proposed Penalty or Sanction' document:*

*"LES's Transmission Vegetation Management Program (TVMP) was non-compliant with FA-003-1 R2 due to the fact that the program did not take into consideration anticipated growth rates of vegetation or the times it takes to obtain permits or permissions to conduct the vegetation management work. This TVMP was in effect from July 1, 2007 until March 27, 2008 when it was updated to reflect the missing items identified above"*

*This violation was identified in LES's June 25-27, 2008 Compliance Audit.*

### **C.3**

Provide any relevant information regarding the violations associated with this Mitigation Plan: *[If known]*



## **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 violation(s) identified above in Section C.1 of this form:

***LES's Transmission Vegetation Management Program (TVMP) was updated to reflect the missing items on March 27, 2008. This was recognized by the MRO Compliance Audit team in the 'Facts and Evidence of the Act or Practice Resulting in the Violation' portion or the 'Notice of Alleged Violation and Proposed Penalty or Sanction' document.***

### **Mitigation Plan Timeline and Milestones**

#### ***D.2***

Provide the timetable for completion of the Mitigation Plan, including the completion date by which the Mitigation Plan will be fully implemented and the violations associated with this Mitigation Plan are corrected: ***Mar 27, 2008***

#### ***D.3***

Milestone Activities, with completion dates, that your organization is proposing for this Mitigation Plan:

<b>Milestone Activity</b>	<b>*Proposed Completion Date (Shall not be greater than 3 months apart)</b>	<b>Actual Completion Date</b>
---------------------------	---	-------------------------------

(\*) Note: 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.

### **Additional Relevant Information (Optional)**

#### ***D.4***

If you have any relevant additional information that you wish to include regarding the mitigation plan, milestones, milestones dates and completion date proposed above you may include it here:

***See attached LES TVMP - March 27, 2008.pdf.***





## **Section E: Interim and Future Reliability Risk**

### **Abatement of Interim BPS Reliability Risk**

#### **E.1**

While your organization is implementing the Mitigation Plan proposed in Section D of this form, the reliability of the Bulk Power System 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 or is proposing as part of the Mitigation Plan to mitigate any increased risk to the reliability of the bulk power system while the Mitigation Plan is being implemented:

***The Mitigation plan has already been completed.***

### **Prevention of Future BPS Reliability Risk**

#### **E.2**

Describe how successful completion of the Mitigation Plan as laid out in Section D of this form will prevent or minimize the probability that your organization incurs further violations of the same or similar reliability standards requirements in the future:

***This mitigation has strengthened our Transmission Vegetation Management Program.***

#### **E.3**

Your organization may be taking or planning other action, beyond that listed in the Mitigation Plan, as proposed in Section D.1, to prevent or minimize the probability of incurring further violations of the same or similar standards requirements listed in Section C.1, or of other reliability standards. If so, identify and describe any such action, including milestones and completion dates:



## **Section F: Authorization**

An authorized individual must sign and date the signature page. By doing so, this individual, on behalf of your organization:

- (a) Submits the Mitigation Plan, as laid out in Section D, to the Regional Entity for acceptance and approval by NERC, and
- (b) If applicable, certifies that the Mitigation Plan, as laid out in Section D of this form, was completed (i) as laid out in Section D of this form and (ii) on or before the date provided as the 'Date of Completion of the Mitigation Plan' on this form, and
- (c) Acknowledges:

1. I am ***Vice President - Power Supply of Lincoln Electric System.***
2. I am qualified to sign this Mitigation Plan on behalf of ***Lincoln Electric System.***
3. I have read and understand ***Lincoln Electric System's*** obligations to comply with Mitigation Plan requirements and ERO remedial action directives as well as ERO documents, including, but not limited to, the NERC Rules of Procedure, including Appendix 4(C) (Compliance Monitoring and Enforcement Program of the 'North American Electric Reliability Corporation' (NERC CMEP) ).
4. I have read and am familiar with the contents of the foregoing Mitigation Plan.
5. ***Lincoln Electric System*** agrees to be bound by, and comply with, this Mitigation Plan, including the timetable completion date, as accepted by the Regional Entity and approved by NERC.

**Authorized Individual Signature** \_\_\_\_\_

(Electronic signature was received by the Regional Office via CDMS. For Electronic Signature Policy see CMEP.)

Name: ***Doug Bantam***

Title: ***Vice President - Power Supply***

Authorized On: ***Dec 29, 2008***



## Mitigation Plan

Mitigation Plan submitted on: **Dec 29, 2008**

Mitigation Plan Completed (Yes/No): **Yes**

Mitigation Plan Completed On: **Feb 17, 2009**

Midwest Reliability Organization



## **Section A: Compliance Notices**

- Section 6.2 of the NERC 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. This person may be the Registered Entity's point of contact described in Section B.

(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.

- This submittal form may be used to provide a required Mitigation Plan for review and approval by regional entity(ies) and NERC.

- The Mitigation Plan shall be submitted to the regional entity(ies) and NERC as confidential information in accordance with Section 1500 of the NERC Rules of Procedure.

- This Mitigation Plan form may be used to address one or more related alleged or confirmed violations of one Reliability Standard. A separate mitigation plan is required to address alleged or confirmed violations with respect to each additional Reliability Standard, as applicable.

1. 'Uniform Compliance Monitoring and Enforcement Program of the North American Electric Reliability Corporation,' a copy of the current version approved by the Federal Energy Regulatory Commission is posted on NERC's website.



- 
- If the Mitigation Plan is accepted by regional entity(ies) 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.
  - Regional Entity(ies) or NERC may reject Mitigation Plans that they determine to be incomplete or inadequate.
  - Remedial action directives also may be issued as necessary to ensure reliability of the bulk power system.
  - The user has read and accepts the conditions set forth in these Compliance Notices.



---

**Section B: Registered Entity Information**

**B.1**

Identify your organization:

Entity Name: *Lincoln Electric System*

Address: *1040 "O" Street, PO Box 80869, Lincoln, Nebraska 68501-0869, United States*

NERC Compliance Registry ID: *[If known] NCR01001*

**B.2**

Identify the individual in your organization who will serve as the Contact to Regional Entity regarding this Mitigation Plan. This person shall be technically knowledgeable regarding this Mitigation Plan and authorized to respond to Regional Entity regarding this Mitigation Plan.:

Name: *Eric Ruskamp*

Title: *Engineer II*

Email: *eruskamp@les.com*

Phone: *402-473-3387*



## **Section C: Identity of Reliability Standard Violation associated with this Mitigation Plan**

### **C.1**

This Mitigation Plan is associated with the following violation(s) of the reliability standard listed below:

Standard Requirement: *FAC-003-1 R2*

Description: *The Transmission Owner shall create and implement an annual plan for vegetation management work to ensure the reliability of the system. The plan shall describe the methods used, such as manual clearing, mechanical clearing, herbicide treatment, or other actions. The plan should be flexible enough to adjust to changing conditions, taking into consideration anticipated growth of vegetation and all other environmental factors that may have an impact on the reliability of the transmission systems. Adjustments to the plan shall be documented as they occur. The plan should take into consideration the time required to obtain permissions or permits from landowners or regulatory authorities. Each Transmission Owner shall have systems and procedures for documenting and tracking the planned vegetation management work and ensuring that the vegetation management work was completed according to work specifications.*

Violation Date: *Jun 27, 2008*

### **C.2**

Identify the cause of the violation(s) identified above:

*Per the MRO's 'Notice of Alleged Violation and Proposed Penalty or Sanction' document:*

*"LES's Transmission Vegetation Management Program (TVMP) was non-compliant with FAC-003-1 R2 due to the fact that the program includes bi-monthly aerial patrols and there was no evidence of these patrols in 2008. LES provided evidence of its annual inspections during the audit which are up to date."*

*This violation was identified in LES's June 25-27, 2008 Compliance Audit.*

### **C.3**

Provide any relevant information regarding the violations associated with this Mitigation Plan: *[If known]*



## **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 violation(s) identified above in Section C.1 of this form:

***The Transmission Vegetation Management Program (TVMP) was updated to reflect LES's current practices.***

### **Mitigation Plan Timeline and Milestones**

#### ***D.2***

Provide the timetable for completion of the Mitigation Plan, including the completion date by which the Mitigation Plan will be fully implemented and the violations associated with this Mitigation Plan are corrected: ***Jul 14, 2008***

#### ***D.3***

Milestone Activities, with completion dates, that your organization is proposing for this Mitigation Plan:

<b>Milestone Activity</b>	<b>*Proposed Completion Date (Shall not be greater than 3 months apart)</b>	<b>Actual Completion Date</b>
---------------------------	---	-------------------------------

(\*) Note: 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.

### **Additional Relevant Information (Optional)**

#### ***D.4***

If you have any relevant additional information that you wish to include regarding the mitigation plan, milestones, milestones dates and completion date proposed above you may include it here:

***See attached Vegetation Management Program - July 14, 2008.pdf.***





## **Section E: Interim and Future Reliability Risk**

### **Abatement of Interim BPS Reliability Risk**

#### ***E.1***

While your organization is implementing the Mitigation Plan proposed in Section D of this form, the reliability of the Bulk Power System 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 or is proposing as part of the Mitigation Plan to mitigate any increased risk to the reliability of the bulk power system while the Mitigation Plan is being implemented:

***The Mitigation plan has already been completed.***

### **Prevention of Future BPS Reliability Risk**

#### ***E.2***

Describe how successful completion of the Mitigation Plan as laid out in Section D of this form will prevent or minimize the probability that your organization incurs further violations of the same or similar reliability standards requirements in the future:

***LES now better appreciates the need to ensure that our TVMP is both accurate and up to date.***

#### ***E.3***

Your organization may be taking or planning other action, beyond that listed in the Mitigation Plan, as proposed in Section D.1, to prevent or minimize the probability of incurring further violations of the same or similar standards requirements listed in Section C.1, or of other reliability standards. If so, identify and describe any such action, including milestones and completion dates:



## **Section F: Authorization**

An authorized individual must sign and date the signature page. By doing so, this individual, on behalf of your organization:

- (a) Submits the Mitigation Plan, as laid out in Section D, to the Regional Entity for acceptance and approval by NERC, and
- (b) If applicable, certifies that the Mitigation Plan, as laid out in Section D of this form, was completed (i) as laid out in Section D of this form and (ii) on or before the date provided as the 'Date of Completion of the Mitigation Plan' on this form, and
- (c) Acknowledges:

1. I am ***Vice President - Power Supply of Lincoln Electric System.***
2. I am qualified to sign this Mitigation Plan on behalf of ***Lincoln Electric System.***
3. I have read and understand ***Lincoln Electric System's*** obligations to comply with Mitigation Plan requirements and ERO remedial action directives as well as ERO documents, including, but not limited to, the NERC Rules of Procedure, including Appendix 4(C) (Compliance Monitoring and Enforcement Program of the 'North American Electric Reliability Corporation' (NERC CMEP) ).
4. I have read and am familiar with the contents of the foregoing Mitigation Plan.
5. ***Lincoln Electric System*** agrees to be bound by, and comply with, this Mitigation Plan, including the timetable completion date, as accepted by the Regional Entity and approved by NERC.

**Authorized Individual Signature** \_\_\_\_\_

(Electronic signature was received by the Regional Office via CDMS. For Electronic Signature Policy see CMEP.)

Name: ***Doug Bantam***

Title: ***Vice President - Power Supply***

Authorized On: ***Dec 29, 2008***

## **Attachment d**

### **LES' Certification of Completion of the Mitigation Plans, dated January 12, 2009**

## Riaz Islam

---

**From:** dflorom@les.com  
**Sent:** Monday, January 12, 2009 9:09 AM  
**To:** Riaz Islam  
**Cc:** ERuskamp@les.com  
**Subject:** Fw: Mitigation Acceptance

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Riaz,

I was able to confirm with our primary compliance engineer that we have completed all of our mitigation plans that you reference below.

Does that get you everything you need?

Dennis Florom, P.E.  
Manager, Energy and Environmental Operations Lincoln Electric System  
email: dflorom@les.com  
phone: 402-473-3384

Riaz Islam  
<R.Islam@MidwestReliability.org>

01/09/2009 09:50  
AM

To  
"dflorom@les.com" <dflorom@les.com>  
cc

"Russ W. Mountjoy"  
<RW.Mountjoy@MidwestReliability.org>, "James D. Burley"  
<JD.Burley@MidwestReliability.org>, "ERuskamp@les.com"  
<ERuskamp@les.com>, "Sara E. Patrick"  
<SE.Patrick@MidwestReliability.org>, "Wayne W. Van Osdol"  
<WW.VanOsdol@MidwestReliability.org>

Subject  
Mitigation Acceptance

Hello Dennis,

We are sending this message to let you know that we have accepted the following mitigation plans that were submitted via CDMS. Please ignore the message that we have sent on 1/8/09 (pasted below).

- COM-002-2 R2 (NERC Violation ID MR0200800052)
- FAC-003-1 R2 (NERC Violation ID MR0200800054)
- FAC-003-1 R2 (NERC Violation ID MR0200800055)

At this point, we would like you to send an email confirmation stating that you have completed above-mentioned mitigation plans.

Please let me know if you have any questions. Thanks

Riaz Islam  
Engineer  
Midwest Reliability Organization (MRO)  
Roseville, MN 55113-1127  
(651)-855-1734

Central Facsimile (651) 855-1712

NOTICE:

This e-mail and any of its attachments may contain MRO or NERC proprietary information that is privileged, confidential, or subject to copyright belonging to MRO or NERC. This e-mail is intended solely for the use of the individual or entity to which it is addressed. If you are not the intended recipient you are hereby notified that any dissemination, distribution, copying, or action taken in relation to the contents of and attachments to this e-mail is strictly prohibited and may be unlawful. If you have received this message in error, please notify the sender immediately and permanently delete the original and any copy of this e-mail.

From: Riaz Islam  
Sent: Thursday, January 08, 2009 4:48 PM  
To: 'dflorom@les.com'  
Cc: Wayne W. Van Osdol; Russ W. Mountjoy; James D. Burley; 'ERuskamp@les.com'  
Subject: Questions on Mitigation Plans  
Importance: High

Hello Dennis,

Per our discussion on 01/08/09, I have the following questions on the mitigation plans that you submitted recently via CDMS.

Two of the mitigation plans regarding FAC-003 refer to Vegetation Management Program and I would appreciate if you could identify the reference(s) of the following items in your Vegetation Mgmt. Program.

1. " Provides flexibility for changing condition, taking into consideration the anticipated growth of vegetation or the time to obtain permissions or permits."
2. During the Compliance Audit in 2008 LES provided Exhibit A where LES indicated a contract with NPPD to provide aerial patrol of the LES 345 kV lines and again I would like you to identify this reference in your program.

Please let me know if you have any questions and appreciate your response by Jan. 15, 2009.  
Thanks

Riaz Islam  
Engineer  
Midwest Reliability Organization (MRO)  
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## **Attachment e**

### **MRO's Verification of Completion of the Mitigation Plans, dated February 25, 2009**



Date: February 25, 2009

To: Lincoln Electric System  
Doug Bantam  
1040 "0" Street  
PO Box 80869  
Lincoln, Nebraska 68501-0869

Re: MRO Verification of Mitigation Plan Completion: MR0200800052,  
MR0200800054, and MR0200800055

Dear Mr. Bantam,

MRO completed its review on February 17, 2009, of evidence of completion and compliance provided by Lincoln Electric System (LES) for mitigation plans addressing the above violations.

It was discovered via Compliance Audit by MRO that the LES Transmission Operators failed to provide clear, concise and definitive directives when implementing High Voltage Clearance Orders as required by COM-002-2, R2 (MRO200800052). Further, the MRO determined that the LES Transmission Vegetation Management Program (TVMP) in effect until March 27, 2008 did not take into consideration anticipated growth rates of vegetation or the time it takes to obtain permissions or permits to conduct the vegetation management work as required by Reliability Standard FAC-003-1, R2 (MRO200800054). Finally, the LES TVMP in effect on March 27, 2008 requires bi-monthly aerial patrols; however, LES could not provide evidence during the Compliance Audit that the patrols did occur. The MRO determined LES was non-compliant with Reliability Standard FAC-003-1, R2 (MRO200800055).

**LES provided the following supporting evidence:**

RELIABILITY STANDARD COM-002-2, R2: LES provided a copy of a memorandum issued by Laurie Gregg to the Transmission Operators instructing them to provide clear directives with the switchman repeating the instructions back when implementing High Voltage Switching Orders. The Switching Order Execution Document provided as evidence was issued June 27, 2008. Upon MRO's request LES provided a list of all high voltage switching orders implemented between June 28, and December 31, 2008. MRO used a random sampling process and selected 8 voice recordings from the list. The recordings evidence the Transmission Operators issued directives in a clear, concise, definitive manner and required the recipient for the directives to repeat the information back correctly when implementing switching orders as required by COM-002-2, R2.







RELIABILITY STANDARD FAC-003-1, R2: LES provided a copy of its Transmission Vegetation Management Program (TVMP) document, effective March 27, 2008. MRO's review of the LES TVMP document verified that the program document includes consideration for anticipated growth rates of vegetation and the time it takes to obtain permits or permissions to conduct the vegetation management work as required by FAC-003-1, R2.

RELIABILITY STANDARD FAC-003-1, R2: LES provided a copy of its updated TVMP document effective July 14, 2008 which reflects LES's current practices associated with high voltage transmission patrols. Upon MRO's request LES provided a copy of its transmission line patrol and maintenance reports which took place in 2008. The transmission line patrol report demonstrates that the required patrols identified in the LES TVMP were completed in 2008.

MRO's review of the documents provided by LES shows that LES had completed the required improvements in their TVMP and Transmission Operator communications skills by the Mitigation Plan completion date of July 14, 2008.

The evidence submitted by LES meets the requirements of NERC RELIABILITY STANDARD COM-002-2, R2 and 2 incidents of Standard FAC-003-1, R2.

Sincerely,

James D. Burley  
Manager of Enforcement and Mitigation

cc: Eric Ruskamp, LES



**From:** [mco@midwestreliability.org](mailto:mco@midwestreliability.org)  
**To:** [cdms-mpcomplete@midwestreliability.org](mailto:cdms-mpcomplete@midwestreliability.org)  
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The following mitigation has been determined to be complete by the MRO Compliance Office:

Entity: **Lincoln Electric System**

Standard Requirement: **FAC-003-1 R2**

Description: **The Transmission Owner shall create and implement an annual plan for vegetation management work to ensure the reliability of the system. The plan shall describe the methods used, such as manual clearing, mechanical clearing, herbicide treatment, or other actions. The plan should be flexible enough to adjust to changing conditions, taking into consideration anticipated growth of vegetation and all other environmental factors that may have an impact on the reliability of the transmission systems. Adjustments to the plan shall be documented as they occur. The plan should take into consideration the time required to obtain permissions or permits from landowners or regulatory authorities. Each Transmission Owner shall have systems and procedures for documenting and tracking the planned vegetation management work and ensuring that the vegetation management work was completed according to work specifications.**

Mitigation Plan submitted on: **Dec 29, 2008** (Version **1**), for Program Year: **2008**.

Questions regarding this Mitigation Plan should be directed to:

**Eric Ruskamp**  
Phone: **402-473-3387**

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The following mitigation has been determined to be complete by the MRO Compliance Office:

Entity: **Lincoln Electric System**

Standard Requirement: **COM-002-2 R2**

Description: **Each Reliability Coordinator, Transmission Operator, and Balancing Authority shall issue directives in a clear, concise, and definitive manner; shall ensure the recipient of the directive repeats the information back correctly; and shall acknowledge the response as correct or repeat the original statement to resolve any misunderstandings.**

Mitigation Plan submitted on: **Dec 29, 2008** (Version **1**), for Program Year: **2008**.

Questions regarding this Mitigation Plan should be directed to:

**Eric Ruskamp**  
Phone: **402-473-3387**

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**Attachment f**

**Notice of Filing**

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Lincoln Electric System

Docket No. NP09-\_\_\_\_-000

NOTICE OF FILING  
July 10, 2009

Take notice that on July 10, 2009, the North American Electric Reliability Corporation (NERC) filed a Notice of Penalty regarding Lincoln Electric System in the Midwest Reliability Organization 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