



NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

January 7, 2009

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

Re: NERC Notice of Penalty regarding Choctaw Gas Generation, LLC, FERC Docket No. NP09-_-000

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Notice of Penalty¹ regarding Choctaw Gas Generation, LLC, NERC Registry ID NCR10207,² in accordance with the Federal Energy Regulatory Commission's (Commission or FERC) rules, regulations and orders, as well as NERC Rules of Procedure including Appendix 4C (NERC Compliance Monitoring and Enforcement Program (CMEP)).

This Notice of Penalty is being filed with the Commission because, based on information from SERC Reliability Corporation, Choctaw Gas Generation, LLC does not dispute the alleged violations of FAC-008-1 Requirement (R)1 and FAC-009-1 R1. SERC Reliability Corporation and Choctaw Gas Generation, LLC have entered into a Settlement Agreement in which Choctaw Gas Generation, LLC has agreed to the proposed penalty of \$10,000 to be assessed to Choctaw Gas Generation, LLC in addition to other actions to promote prospective compliance required under the terms and conditions of the Settlement Agreement, and to resolve all outstanding issues arising from a preliminary and non-public assessment resulting in SERC Reliability Corporation's determination and findings of enforceable alleged violations at issue in this Notice of Penalty. Accordingly, the alleged violations identified as NERC Violation Tracking Identification Numbers SERC200800117 and SERC200800125 are being filed in accordance with the NERC Rules of Procedure and the CMEP.

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

² SERC Reliability Corporation confirmed that Choctaw Gas Generation, LLC was included on the NERC Compliance Registry as a Generator Owner and was subject to the requirements of NERC Reliability Standard FAC-008-1 and FAC-009-1.

Statement of Findings Underlying the Alleged Violations

This Notice of Penalty incorporates the findings and justifications set forth in the Settlement Agreement executed as of August 29, 2008, by and between SERC Reliability Corporation and Choctaw Gas Generation, LLC, which is included as Attachment a, and the Supplemental Record Information letter issued on October 30, 2008 by SERC Reliability Corporation to Choctaw Gas Generation, LLC. 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 described in greater detail below.

Region	Registered Entity	NOC ID	NERC Violation ID	Reliability Std.	Req. (R)	VRF	Total Penalty (\$)
SERC	Choctaw Gas Generation, LLC	NOC-82	SERC200800117	FAC-008-1	1	Medium	10,000
SERC	Choctaw Gas Generation, LLC	NOC-82	SERC200800125	FAC-009-1	1	Medium	

FAC-008-1 R1 requires an entity such as Choctaw Gas Generation, LLC to document its current methodology used for developing Facility Ratings (Facility Ratings Methodology) of its solely and jointly owned Facilities. The methodology shall include all of the following: a statement that a Facility Rating shall equal the most limiting applicable Equipment Rating of the individual equipment that comprises that Facility; the method by which the Rating (of major bulk electric system equipment that comprises a Facility) is determined; the scope of equipment addressed shall include, but not be limited to, generators, transmission conductors, transformers, relay protective devices, terminal equipment, and series and shunt compensation devices; the scope of Ratings addressed shall include, as a minimum, both Normal and Emergency Ratings; and consideration of the following: Ratings provided by equipment manufacturers, design criteria (e.g., including applicable references to industry Rating practices such as manufacturer’s warranty, IEEE, ANSI or other standards), ambient conditions, operating limitations, and other assumptions.

FAC-009-1 R1 requires an entity such as Choctaw Gas Generation, LLC to establish Facility Ratings for its solely and jointly owned Facilities that are consistent with the associated Facility Ratings Methodology.

According to the Settlement Agreement, Choctaw Gas Generation, LLC submitted to SERC Reliability Corporation self-certifications on November 29, 2007 and November 30, 2007, stating that it was in full compliance with FAC-008-1 and FAC-009-1, respectively. During an on-site compliance audit on April 15, 2008 through April 17, 2008, SERC Reliability Corporation’s Audit team performed a detailed review of Choctaw Gas Generation, LLC’s evidence of its compliance with all requirements of FAC-008-1 and FAC-009-1, in addition to the other standards applicable to Choctaw Gas Generation, LLC as a Generator Owner and

Generator Operator. According to SERC Reliability Corporation, its Audit team identified FAC-008-1 R1 and R2, FAC-009-1 R1 and R2, and CIP-001-1 R4 as possible violations.³

During the on-site compliance audit on April 15, 2008 through April 17, 2008, the SERC Reliability Corporation Audit team performed a detailed review of Choctaw Gas Generation, LLC's evidence of its compliance with all requirements of FAC-008-1, FAC-009-1 and CIP-001-1, in addition to the other standards applicable to Choctaw Gas Generation, LLC as a Generator Owner and Generator Operator. The SERC Reliability Corporation Audit team identified FAC-008-1 R1 and R2, FAC-009-1 R1 and R2, and CIP-001-1 R4 as possible violations.

As discussed in the Settlement Agreement, on April 28, 2008, the SERC Compliance Enforcement Staff initiated a detailed compliance assessment to review the findings of the Audit team and issued to Choctaw Gas Generation, LLC a Compliance Assessment Notice advising Choctaw Gas Generation, LLC of the initiation of a formal assessment to determine its compliance relative to FAC-008-1, FAC-009-1 and CIP-001-1. According to SERC Reliability Corporation, based on its detailed compliance assessment, SERC Reliability Corporation Enforcement Staff determined that Choctaw Gas Generation, LLC had violated FAC-008-1 R1 and FAC-009-1 R1. On August 19, 2008, SERC Reliability Corporation Compliance Enforcement Staff also determined to dismiss the alleged violations of FAC-008-1 R2⁴ and FAC-009-1 R2.⁵

³ Choctaw Gas Generation, LLC was not registered on the NERC Compliance Registry until approximately November 21, 2007. Prior to that time, SUEZ Energy Marketing NA was registered as the Generator Owner for the Choctaw Gas Generation, LLC generating facility along with the three other SUEZ-affiliated generating facilities in the SERC Reliability Corporation Region. Two of the SUEZ-affiliated generating facilities were also separately registered as Generator Owners at the time of the September 1, 2007 due date for self-certifications for the Generator Owner-related Reliability Standards. At the time, SUEZ Energy Marketing NA and SERC Reliability Corporation had initiated discussions regarding registration changes so as to reconcile the duplicate registrations, therefore the requirement for SUEZ Energy Marketing NA, and its affiliated generating facilities including Choctaw Gas Generation, LLC, to submit self-certifications was deferred until the registration issues were resolved. SERC Reliability Corporation and SUEZ Energy Marketing NA ultimately decided to register each of the four SUEZ-affiliated generating facilities in the SERC Reliability Corporation Region as separate registered entities. The separate registrations of Choctaw Gas Generation, LLC and the other three SUEZ-affiliated generating facilities as Generator Owners and Generator Operators were completed on or about November 21, 2007, at which time SUEZ Energy Marketing NA was de-listed as Generator Owner and Generator Operator, and was registered instead as a Purchasing-Selling Entity. Given this late registration, Choctaw Gas Generation, LLC was not required to self-certify compliance with FAC-008-1 or FAC-009-1 until November 30, 2007.

⁴ FAC-008-1 R2 requires an entity such as Choctaw Gas Generation, LLC to make its Facility Ratings Methodology available for inspection and technical review by those Reliability Coordinators, Transmission Operators, Transmission Planners, and Planning Authorities that have responsibility for the area in which the associated Facilities are located, within 15 business days of receipt of a request. SERC Reliability Corporation determined that Choctaw Gas Generation, LLC did not receive a request by such entities during the period at issue, which was a condition precedent to a violation of this Requirement.

⁵ FAC-009-1 R2 requires an entity such as Choctaw Gas Generation, LLC to provide Facility Ratings for its solely and jointly owned Facilities that are existing Facilities, new Facilities, modifications to existing Facilities and re-ratings of existing Facilities to its associated Reliability Coordinator(s), Planning Authority(ies), Transmission Planner(s), and Transmission Operator(s) as scheduled by such requesting entities. SERC Reliability Corporation determined that Choctaw Gas Generation, LLC did not receive a request by such entities during the period at issue, which was a condition precedent to a violation of this Requirement.

During the course of the settlement discussions, based on the additional evidence provided to SERC Reliability Corporation Compliance Enforcement Staff by Choctaw Gas Generation, LLC subsequent to the compliance audit and guidance issued by NERC on June 3, 2008, with respect to CIP-001-1 R4,⁶ SERC Reliability Corporation also dismissed the CIP-001-1 R4 violation and found Choctaw Gas Generation, LLC to be compliant with this Requirement.

According to the Settlement Agreement, for FAC-008-1 R1, Choctaw Gas Generation, LLC presented as evidence of its Facility Ratings Methodology for the period from June 18, 2007 to November 13, 2007 a Draft Reference Book document. The Draft Reference Book did not contain any statements of Facility Ratings Methodologies. Furthermore, the scope of the equipment in the Draft Reference Book did not include the elements set forth in FAC-008-1 R1: generators, generator capabilities, transmission conductors, transformers, relay protective devices, terminal equipment, or series and shunt compensation devices. Choctaw Gas Generation, LLC's revised Facilities Ratings Methodology Document, dated November 13, 2007, also was reviewed by the SERC Reliability Corporation's Audit team and SERC Reliability Corporation's Compliance Enforcement Staff and was determined to contain the required content pursuant to FAC-008-1 R1.

According to SERC Reliability Corporation, while its Staff determined that Choctaw Gas Generation, LLC was compliant with FAC-008-1 R1 since November 13, 2007, the documentation produced by Choctaw Gas Generation, LLC to demonstrate its compliance with this Requirement did not contain any statements of Facility Ratings Methodology. Therefore, SERC Reliability Corporation found that Choctaw Gas Generation, LLC was in violation of FAC-008-1 R1 from June 18, 2007 until November 13, 2007.

As set forth in the Settlement Agreement, for FAC-009-1 R1, Choctaw Gas Generation, LLC presented evidence of its Facility Ratings in the form of a spreadsheet dated December 12, 2007. The SERC Reliability Corporation's Audit team and SERC Reliability Corporation's Compliance Enforcement Staff reviewed the generating facility equipment rating inventory included for each of the three generators and associated equipment and concluded that the documentation was sufficient evidence of compliance with FAC-009-1 R1 as of December 12, 2007. However, Choctaw Gas Generation, LLC could not present evidence of established Facility Ratings consistent with the documented Facilities Ratings Methodology prior to December 12, 2007.

According to SERC Reliability Corporation, while its Staff determined that Choctaw Gas Generation, LLC was compliant with FAC-009-1 R1 since December 12, 2007, SERC Reliability Corporation found that Choctaw Gas Generation, LLC could not demonstrate that it had established Facility Ratings consistent with Choctaw Gas Generation, LLC's Facility Ratings Methodology prior to December 12, 2007. Therefore, SERC Reliability Corporation

⁶ CIP-001-1 R4 requires an entity such as the Choctaw Gas Generation, LLC to establish communications contacts, as applicable, with local Federal Bureau of Investigation (FBI) or Royal Canadian Mounted Police (RCMP) officials and develop reporting procedures as appropriate to their circumstances. SERC Reliability Corporation determined that Choctaw Gas Generation, LLC had a working telephone number for the FBI during the period at issue.

alleged that Choctaw Gas Generation, LLC was in violation of FAC-009-1 R1 from June 18, 2007 until December 12, 2007.

SERC Reliability Corporation assessed the alleged violation of FAC-008-1 R1 to have a “Medium” Violation Risk Factor (VRF). While FAC-008-1 R1 has a “Lower” VRF, its sub-requirements have a “Medium” VRF. Therefore, SERC Reliability Corporation assessed a “Medium” VRF on the FAC-008-1 R1 violation. FAC-009-1 R1 has a “Medium” VRF.

According to SERC Reliability Corporation, its Compliance Enforcement Staff concluded that Choctaw Gas Generation, LLC’s insufficiently documented Facility Ratings Methodology and undocumented Facility Ratings for its generating facilities represented a low actual and foreseen risk to bulk power system reliability. Thus, SERC Reliability Corporation’s Compliance Enforcement Staff determined that, in this instance, the single, aggregate penalty amount of \$10,000 bears a reasonable relation to the seriousness and duration of the alleged violations and takes into consideration Choctaw Gas Generation, LLC’s voluntary efforts to remedy the alleged violations in a timely manner. Furthermore, based on Choctaw Gas Generation, LLC’s cooperation, commitment to compliance and agreement to expeditiously reconcile this issue via settlement, SERC Reliability Corporation determined that the penalty of \$10,000 was appropriate.

Status of Mitigation Plan⁷

As noted above, both of the alleged violations had been remedied by Choctaw Gas Generation, LLC at the time of discovery by SERC Reliability Corporation. Therefore, no Mitigation Plan was required to address the deficiencies in Choctaw Gas Generation, LLC’s Facility Ratings Methodology and Facility Ratings for its generating facilities.

Additional Actions for Prospective Compliance

In addition to the payment of the \$10,000 financial penalty, Choctaw Gas Generation, LLC has agreed to perform the following additional actions. Because Choctaw Gas Generation, LLC’s parent, SUEZ Energy Generation NA owns and operates other generating facilities across the SERC Reliability Corporation Region and other NERC Regions, the sharing of its experiences and lessons learned can add value in promoting a culture of compliance among similar entities. To that end, Choctaw Gas Generation, LLC, through SUEZ Energy Generation NA, agreed to provide panelists or speakers for at least one Regional Entity compliance workshop or conference during 2009, upon approval by the Regional Entity, to present elements of their NERC Compliance Program that include the following items:

- i. Description of the Corporate Compliance Team and functions throughout several NERC Regions;
- ii. Company Site Administrative Procedures used to promote compliance throughout the company;

⁷ See 18 C.F.R § 39.7(d)(7).

- iii. Internal Audit Process used for due diligence of new acquisitions and for annual review of compliance for current assets; and
- iv. Review of Corporate Compliance internal database portal.

The Settlement Agreement provisions regarding Choctaw Gas Generation, LLC or SUEZ Energy Generation NA's participation or presentation in such workshop or conference prohibit any action or comment disputing the findings of SERC Reliability Corporation herein and prohibit using the workshop as a forum to challenge the content or applicability of any Reliability Standard.

Statement Describing the Proposed Penalty, Sanction or Enforcement Action Imposed⁸

Basis for Determination

Taking into consideration the Commission's direction in Order No. 693, the NERC Sanction Guidelines and the Commission's July 3, 2008 Guidance Order, the NERC BOTCC reviewed the Settlement Agreement and supporting documentation on October 7, 2008. The NERC BOTCC approved the Settlement Agreement, including SERC Reliability Corporation's determination to impose a \$10,000 penalty against Choctaw Gas Generation, LLC, in addition to 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 violations at issue.

In reaching this determination, NERC BOTCC considered the following factors: (1) the alleged violations reflected a deficiency in procedures and documentation; (2) the time of actual non-compliance was during 2007; (3) Choctaw Gas Generation, LLC corrected its documentation in 2007; (4) Choctaw Gas Generation, LLC had self-certified in 2007 that it was in compliance with the Reliability Standards at issue, yet SERC Reliability Corporation found this was not the case as a result of an audit conducted in 2008; (5) the sharing of its experiences and lessons learned can add value in promoting a culture of compliance among similar entities. To that end, Choctaw Gas Generation, LLC, through SUEZ Energy Generation NA, agreed to provide panelists and speakers at a Regional Entity compliance workshop or conference, to present elements elements of their NERC Compliance Program that include the following items: description of the Corporate Compliance Team and functions throughout several NERC Regions; company Site Administrative Procedures used to promote compliance throughout the company; Internal Audit Process used for due diligence of new acquisitions and for annual review of compliance for current assets; and review of the Corporate Compliance internal database portal.

Therefore, NERC approves the Settlement Agreement and believes that the proposed \$10,000 dollar penalty is appropriate and consistent with NERC's goal to ensure reliability of the bulk power system.

⁸ See 18 C.F.R § 39.7(d)(4).

NERC notes that there are three more Settlement Agreements in SERC Reliability Corporation region that are being contemporaneously filed also involving SUEZ-affiliated entities. Each Settlement Agreement has penalty amounts of \$10,000, involving the same facts wherein entities self-certified compliance in 2007 and were later found in 2008 by the SERC Reliability Corporation not to be compliant. In each case, while self-certifying compliance in 2007, the entity revised its documentation in 2007 so that the violation did not continue into 2008, but did not self-report the violations once known or advise SERC Reliability Corporation of the changes made. In addition, also being contemporaneously filed are two Notices of Penalty involving alleged violations by SUEZ-affiliated entities located in the Texas Regional Entity area. In those cases, the SUEZ-affiliated entities self-certified non-compliance in 2007, the Texas Regional Entity subsequently confirmed in 2007 such non-compliance, the entities became compliant by year end 2007, and Texas Regional Entity assessed a zero dollar penalty. These issues were considered by NERC BOTCC in approving all six Notices of Penalty. NERC believes that the facts are sufficiently distinguishable to warrant the penalty amounts imposed by SERC Reliability Corporation and Texas Regional Entity.

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.

The Record of the Proceeding⁹

The record of the proceeding includes the following documents and material:

- a) Settlement Agreement by and Between Choctaw Gas Generation, LLC and SERC Reliability Corporation, included in Attachment a; and
- b) Supplemental Record Information to Support Notice of Penalty Filing.

A Form of Notice Suitable for Publication¹⁰

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

⁹ See 18 C.F.R § 39.7(d)(5).

¹⁰ 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: Choctaw Gas Generation, LLC
SERC Reliability Corporation

Attachment(s)

Attachment a

Settlement Agreement by and between

SERC Reliability Corporation

and

Choctaw Gas Generation, LLC

**SETTLEMENT AGREEMENT
OF
SERC RELIABILITY CORPORATION
AND
CHOCTAW GAS GENERATION, LLC**

I. INTRODUCTION

1. SERC RELIABILITY CORPORATION (“SERC”) and CHOCTAW GAS GENERATION, LLC (“CGG”) (NERC Compliance Registry ID# 10207) enter into this Settlement Agreement (“Agreement”) to resolve all outstanding issues arising from a preliminary and non-public assessment resulting in SERC’s determination and findings, pursuant to the North American Electric Reliability Corporation (“NERC”) Rules of Procedure, of violations by CGG of the NERC Reliability Standards FAC-009-1, Requirement R1; FAC-008-1, Requirement R1; and CIP-001-1, Requirement R4.

II. STIPULATION

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

Background

3. CHOCTAW GAS GENERATION, LLC is a subsidiary of SUEZ Energy Generation NA (SEGNA). The CGG facility maintains a capacity of 720 MW and is a combined cycle merchant power plant that has the capacity to produce enough power equivalent to power 576,000 homes.
4. SEGNA is headquartered in Houston, Texas. SEGNA currently owns and/or operates a total of 44 power, cogeneration, steam, and chilled-water facilities, including those in construction or under development, representing a capacity of more than 5,538 MW of electricity generation, 7.0 million pounds per hour of steam, and 65,000 tons of chilled water. The facilities use a variety of fuels to produce power, heat, and cooling.

Alleged Violation

5. On April 16, 2008, a scheduled compliance audit of CGG was conducted by SERC resulting in findings by the audit team of possible violations of NERC Reliability Standards FAC-008-1, Requirement R1; FAC-009-1, Requirement R1; and CIP-001-1, Requirement R4.
6. SERC Compliance Enforcement Staff confirmed that CGG was listed on the NERC Compliance Registry as a Generator Operator and Generator Owner and that CGG, therefore, was subject to the Requirements of NERC Reliability Standards FAC-008-1, R1; FAC-009-1, R1; and CIP-001-1, R4.
7. SERC Compliance Enforcement Staff conducted a compliance assessment and reviewed information from the audit team along with the evidence submitted by CGG. SERC Compliance Enforcement Staff confirmed that CGG as a Generator Owner was expected to develop and establish a Facility Ratings Methodology pursuant to NERC Reliability Standard FAC-008-1 R1 and to establish Facility Ratings, based on such Facility Ratings Methodology, pursuant to NERC Reliability Standard FAC-009-1 R1. SERC Compliance Enforcement Staff confirmed further that CGG as a Generator Operator was expected to establish communications contacts with local Federal Bureau of Investigation (FBI) officials and to develop reporting procedures based on CIP-001-1 R4.
 - i. FAC-008-1 R1 states: "Transmission Owner and Generator Owner shall each document its current methodology used for developing Facility Ratings (Facility Ratings Methodology) of its solely and jointly owned Facilities."
 - ii. FAC-009-1 R1 states: "The Transmission Owner and Generator Owner shall each establish Facility Ratings for its solely and jointly owned Facilities that are consistent with the associated Facility Ratings Methodology."
 - iii. CIP-001-1 R4 states: "Each Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, and Load Serving Entity shall establish communications contacts, as applicable, with local Federal Bureau of Investigation (FBI) or Royal Canadian Mounted Police (RCMP) officials and develop reporting procedures as appropriate to their circumstances".
8. SERC Compliance Enforcement Staff reviewed the findings of the audit team, conducted telephone and e-mail inquiries with CGG, and reviewed CGG's documentation and concluded that CGG did not have a documented Facility Ratings Methodology from June 18, 2007 (when the standards became enforceable) until November 13, 2007 and had not developed Facility Ratings for its existing facilities consistent with the Facility Ratings Methodology , as

required by FAC-009-1, until December 12, 2007. SERC Compliance Enforcement also concluded that CGG had not provided evidence documenting that communication had taken place between CGG and the local FBI prior to September 30, 2007.

9. In assessing the proposed penalty and sanctions associated with the violations of FAC-008-1, FAC-009-1 and CIP-001-1, SERC Compliance Enforcement Staff determined that the violations represent a gap in CGG's post June 18, 2007 compliance and each instance of violation had been mitigated at the time of the compliance audit.
10. On May 20, 2008, CGG requested the commencement of settlement discussions to resolve the allegations of the subject violations.
11. In light of the prompt initiation of settlement discussions, CGG's cooperation and the progress towards closure, SERC Compliance Enforcement Staff did not issue formal Notice of Alleged Violation and Proposed Penalty or Sanction detailing the Alleged Violations of FAC-008-1 and FAC-009-1.

III. PARTIES' SEPARATE REPRESENTATIONS

Statement of SERC and Summary of Findings

12. CGG was audited as a Generator Owner and Generator Operator during the week of April 15-17, 2008. SERC Staff conducted a compliance assessment resulting in the following facts and conclusions:

- i. In regards to FAC-008-1 R1, CGG presented as evidence of its Facility Ratings Methodology for the period from June 18, 2007 to November 13, 2007 a Draft Reference Book document attached to an email dated June 11, 2007 referred to as FAC-008-1 Reference Book document ("Original Draft Reference Book"). To determine compliance with the standard, the Audit Team and Enforcement Staff reviewed the Original Draft Reference Book.

The Original Draft Reference Book's purpose is to serve as a guideline for identifying risks associated with assets and fails to define Facility Ratings as required by the standard. The Original Draft Reference Book did not contain any statements of facility ratings methodologies.

Furthermore, the scope of the equipment in the Original Draft Reference Book does not include the elements set forth in R1: generators, generator capabilities, transmission conductors, transformers, relay protective devices, terminal equipment, or series and shunt compensation devices.

CGG's revised Facility Ratings Methodology Document, dated November 13, 2007, was reviewed by the SERC audit team and SERC Compliance Enforcement Staff and was determined to contain the required content pursuant to FAC-008-1 R1.

SERC Compliance Enforcement Staff concluded that CGG, as a Generator Owner, did not present sufficient evidence of the existence of a documented methodology for use in developing facility ratings for its facilities in accordance with FAC-008 R1 prior to its Facility Ratings Methodology Document dated November 13, 2007. Therefore, SERC finds that CGG was in violation of NERC Reliability Standard FAC-008-1 R1 for the period from June 18, 2007 (when the standard became enforceable) until November 13, 2007.

- ii. In regards to FAC-009-1 R1, CGG presented evidence of its Facility Ratings in the form of a spreadsheet dated December 12, 2007 ("FAC-009-R1- Choctaw Gas Generation Facility Ratings.doc"). The SERC audit team and Compliance Enforcement Staff reviewed the generating facility equipment rating inventory included on the spreadsheet for each of the three generators and associated equipment and concluded that the document was sufficient evidence of compliance with FAC-009-1 R1 as of December 12, 2007. However, CGG could not present evidence of established Facility Ratings consistent with the documented Facility Ratings Methodology prior to December 12, 2007. Therefore, SERC finds that CGG was in violation of NERC Reliability Standard FAC-009-1 from June 18, 2007 (when the standard became enforceable) to December 12, 2007.
- iii. In regards to CIP-001 R4, CGG was unable to produce evidence confirming that contact had been established with local FBI officials prior to September 30, 2007. However, because CGG's sabotage reporting procedure in effect prior to June 18, 2007 had evidence of a working FBI number and based on the revised guidance on CIP-001-1 R4 issued by NERC on June 3, 2008, SERC finds that the Alleged Violation of CIP-001-1 R4 should be dismissed, as reflected in this Agreement.

13. SERC agrees that this Agreement is in the best interest of the parties and in the best interest of Bulk Power System reliability.

Statement OF CGG

14. CGG neither admits nor denies that the facts set forth and agreed to by the parties for purposes of this Agreement constitute violations of FAC-008-1 R1 and FAC-009-1 R1. CGG believes its operation and maintenance of the facilities, and its compliance program contribute to the reliability of the bulk

electric system and CGG in no way compromised the safety and reliability of the bulk electric system.

15. CGG has entered into this settlement agreement to avoid lengthy proceedings and expedite the settlement of alleged violations. Although CGG does not admit to, nor does it deny, the alleged violations of FAC-008-1 R1 and FAC-009-1 R1, CGG has agreed to enter into this Agreement with SERC 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. CGG 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

16. For purposes of settling any and all disputes arising from SERC Compliance Enforcement Staff's assessment into the matters discovered during the Compliance Audit of CGG, SERC and CGG agree that on and after the effective date of this Agreement, CGG shall take the following action:
 - i. CGG shall pay a monetary penalty of **\$10,000.00** to SERC, via wire transfer to a SERC account that will be outlined in an invoice sent to CGG 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 SERC shall notify NERC if the payment is not received.
17. SERC Compliance Enforcement Staff determined an aggregate proposed penalty of \$10,000.00 for the violations of FAC-008-1 R1 and FAC-009-1 R1. SERC Compliance Enforcement Staff concluded that CGG's insufficiently documented Facility Ratings Methodology and undocumented Facility Ratings for its generating facilities represented a low actual and foreseen risk to Bulk-Power System reliability. Thus, SERC Compliance Enforcement Staff determined that, in this instance, the single, aggregate penalty amount of \$10,000.00 bears a reasonable relation to the seriousness and duration of the violations and takes into consideration CGG's voluntary efforts to remedy the violations in a timely manner. Furthermore, based on CGG's cooperation, commitment to compliance, and agreement to expeditiously reconcile this issue via settlement, SERC Compliance Enforcement Staff assessed the total penalty to be \$10,000.00.
18. Additionally, because CGG's parent, SEGNA owns and operates other generating facilities across SERC and other NERC Regions, the sharing of its experiences and lessons learned can add value in promoting a culture of compliance among similar entities. To that end, CGG, through SEGNA, will provide panelists or speakers for at least one Regional Entity compliance

workshop or conference, upon approval by the Regional Entity, to present elements of their NERC Compliance Program that include the following items:

- i. Description of the Corporate Compliance Team and functions throughout several NERC Regions;
- ii. Company Site Administrative Procedures used to promote compliance throughout the company;
- iii. Internal Audit Process used for due diligence of new acquisitions and for annual review of compliance for current assets; and
- iv. Review of Corporate Compliance internal database portal.

CGG or SEGNA's participation or presentation in such workshop or conference shall not include any action or comment disputing the findings of SERC herein and shall not be used as a forum to challenge the content or applicability of any Reliability Standard.

19. 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 Agreement, shall be deemed to be either the same alleged violations that initiated this Settlement and/or additional violation(s) and may subject CGG to new or additional enforcement, penalty or sanction actions in accordance with the NERC Rules of Procedure.

20. If CGG does not make the monetary penalty payment above at the times agreed by the parties, interest payable to SERC 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

21. 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 SERC or CGG has been made to induce the signatories or any other party to enter into the Agreement.

22. SERC 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 SERC and CGG of changes to the settlement that would result in approval. If NERC rejects the

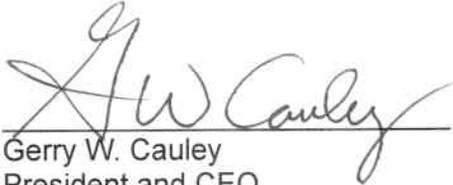
settlement, NERC will provide specific written reasons for such rejection and SERC will attempt to negotiate a revised settlement agreement with CGG including any changes to the settlement specified by NERC. If a settlement cannot be reached, the enforcement process shall continue to conclusion. If NERC 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.

23. 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
24. This Agreement shall become effective upon NERC and the Commission's approval of the Agreement.
25. CGG agrees that this Agreement, when approved by NERC and the Commission, shall represent a final settlement of all matters set forth herein and CGG waives its right to further hearings and appeal, unless and only to the extent that CGG contends that any NERC or Commission action on the Agreement contains one or more material modifications to the Agreement. SERC reserves all rights to initiate enforcement, penalty or sanction actions against CGG in accordance with the NERC Rules of Procedure in the event that CGG fails to comply with the mitigation plan and compliance program agreed to in this Agreement. In the event CGG fails to comply with any of the stipulations, remedies, sanctions or additional terms, as set forth in this Agreement, SERC will initiate enforcement, penalty, or sanction actions against CGG to the maximum extent allowed by the NERC Rules of Procedure, up to the maximum statutorily allowed penalty. CGG shall retain all rights to defend against such enforcement actions, also according to the NERC Rules of Procedure.
26. 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.
27. 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.
28. The Agreement may be signed in counterparts.

29. This Agreement is executed in duplicate, each of which so executed shall be deemed to be an original.

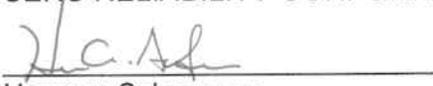
***Remainder of page intentionally blank.
Signatures to be affixed to the following page.***

Agreed to and accepted:



Gerry W. Cauley
President and CEO
SERC RELIABILITY CORPORATION

8/29/2008
Date



Herman Schopman
Vice President
CHOCTAW GAS GENERATION, LLC

8/28/08
Date

Attachment b

Notice of Filing

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Choctaw Gas Generation, LLC

Docket No. NP09-____-000

NOTICE OF FILING
(DATE)

Take notice that on January 7, 2009, the North American Electric Reliability Corporation (NERC), filed a Notice of Penalty regarding Choctaw Gas Generation, LLC in the SERC Reliability Corporation 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, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: [BLANK]

Kimberly D. Bose,
Secretary