



NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

December 30, 2009

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

**Re: NERC Notice of Penalty regarding South Eastern Generating Corporation, FERC  
Docket No. NP10-\_-000**

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Notice of Penalty<sup>1</sup> regarding South Eastern Generating Corporation (SEGCO), NERC Registry ID NCR01314,<sup>2</sup> in accordance with the Federal Energy Regulatory Commission's (Commission or FERC) rules, regulations and orders, as well as NERC Rules of Procedure including Appendix 4C (NERC Compliance Monitoring and Enforcement Program (CMEP)).<sup>3</sup>

On July 1, 2008, SEGCO self-reported its non-compliance with PRC-005-1 Requirement (R) 1 for its failure to have documented bases for the maintenance and testing intervals of its protective relays identified in its maintenance and testing program. Additional possible violations were identified in SERC Reliability Corporation's (SERC) September 16, 2008 audit, including: (1) an expansion in scope of the previously self-reported possible violation of PRC-005-1 R1 for SEGCO's failure to include intervals, documented bases for its intervals, or a summary of its maintenance and testing procedures for associated communication systems, voltage and current sensing devices and DC control circuitry in its maintenance and testing program; (2) PRC-005-1 R2 for SEGCO's failure to conduct testing on certain elements (discussed below); and (3) FAC-

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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). See 18 C.F.R. § 39.7(c)(2).

<sup>2</sup> SERC Reliability Corporation confirmed that SEGCO was included on the NERC Compliance Registry as a Generator Owner and Generation Operator on May 31, 2007 and as a Generator Owner was subject to the requirements of NERC Reliability Standards PRC-005-1 and FAC-008-1. SEGCO is a wholly-owned subsidiary of Morgan Stanley Capital Group Inc. which is a direct, wholly-owned subsidiary of Morgan Stanley. A Notice of Penalty related to another subsidiary of Morgan Stanley is being concurrently filed with the instant Notice of Penalty.

<sup>3</sup> See 18 C.F.R. § 39.7(c)(2).

008-1 R1 (specifically R1.1) for SEGCO’s failure to include a required statement in its Facility Ratings Methodology. This Notice of Penalty is being filed with the Commission because, based on information from SERC, SERC and SEGCO have entered into the Settlement Agreement to resolve all outstanding issues arising from a preliminary and non-public assessment resulting in SERC’s determination and findings of the enforceable alleged violations of PRC-005-1 R1 and R2 and FAC-008-1 R1. Pursuant to the Settlement Agreement, SEGCO neither admits nor denies the alleged violations of PRC-005-1 R1 and R2 and FAC-008-1 R1, but SEGCO has agreed to the proposed penalty of eleven thousand dollars (\$11,000) to be assessed to SEGCO, in addition to other remedies and mitigation actions to mitigate the instant alleged violations and ensure future compliance under the terms and conditions of the Settlement Agreement. Accordingly, the alleged violations identified as NERC Violation Tracking Identification Numbers SERC200800156, SERC200800194, SERC200800195 and SERC200800196 are being filed in accordance with the NERC Rules of Procedure and the CMEP.

**Statement of Findings Underlying the Alleged Violations**

This Notice of Penalty incorporates the findings and justifications set forth in the Settlement Agreement executed on May 21, 2009 by and between SERC and SEGCO, hereinafter referred to collectively as the “Parties” or singularly as a “Party,” included as Attachment c. 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 Std.	Req. (R)	VRF	Total Penalty (\$)
SERC	South Eastern Generating Corporation	NOC-90	SERC200800156	PRC-005-1	1	High <sup>4</sup>	11,000
SERC	South Eastern Generating Corporation	NOC-90	SERC200800194	PRC-005-1	1	High	
SERC	South Eastern Generating Corporation	NOC-90	SERC200800195	PRC-005-1	2	High <sup>5</sup>	
SERC	South Eastern Generating Corporation	NOC-90	SERC200800196	FAC-008-1	1/1.1	Medium	

<sup>4</sup> When NERC filed VRFs for PRC-005, NERC originally assigned a “Medium” VRF to PRC-005-1 Requirement R1. In the Commission’s May 18, 2007 Order on Violation Risk Factors, the Commission approved the VRF as filed but directed modifications. On June 1, 2007, NERC filed the modified “High” VRF for PRC-005 Requirement R1 for approval. On August 6, 2007, the Commission issued an Order approving the modified VRF. Therefore, the “Medium” VRF was in effect from June 18, 2007 until August 6, 2007 and the “High” VRF has been in effect since August 6, 2007.

<sup>5</sup> PRC-005-1 R2 has a “Lower” VRF; R2.1 and R2.2 have “High” VRFs.

The purpose of Reliability Standard PRC-005-1 is to ensure all transmission and generation Protection Systems<sup>6</sup> affecting the reliability of the Bulk Power System (BPS) are maintained and tested.

PRC-005-1 R1 requires each Transmission Owner and any Distribution Provider that owns a transmission Protection System and each Generator Owner, such as SEGCO, that owns a generation Protection System to have a Protection System maintenance and testing program for Protection Systems that affect the reliability of the BPS. Specifically, PRC-005-1 R1.1 requires the program to include maintenance and testing intervals and their basis and PRC-005-1 R1.2 requires the program to include a summary of maintenance and testing procedures. PRC-005-1 R1,<sup>7</sup> R1.1 and R1.2 all have “High” Violation Risk Factors (VRF).

PRC-005-1 R2 requires each Transmission Owner and any Distribution Provider that owns a transmission Protection System and each Generator Owner, such as SEGCO, that owns a generation Protection System to provide documentation of its Protection System maintenance and testing program and the implementation of that program to its Regional Entity on request (within 30 calendar days). Specifically, PRC-005-1 R2.1 requires the documentation of the program implementation to include evidence that Protection System devices were maintained and tested within the defined intervals and PRC-005-1 R2.2 requires the documentation of the program implementation to include the date each Protection System device was last tested/maintained. PRC-005-1 R2 has a “Lower” VRF. PRC-005-1 R2.1<sup>8</sup> and R2.2 have a “High” VRF.

The purpose of Reliability Standard FAC-008-1 is to ensure that Facility Ratings used in the reliable planning and operation of the BPS are determined based on an established methodology or methodologies.

FAC-008-1 R1 requires each Generator Owner, such as SEGCO, and Transmission Owner to document its current methodology used for developing Facility Ratings (Facility Ratings Methodology) of its solely and jointly owned Facilities. FAC-008-1 R1.1 requires the methodology to include a statement that a Facility Rating shall equal the most limiting applicable Equipment Rating of the individual equipment that comprises that Facility. FAC-008-1 R1.1 has a “Medium” VRF.<sup>9</sup>

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<sup>6</sup> The NERC Glossary of Terms Used in Reliability Standards, updated April 20, 2009, defines Protection System as “Protective relays, associated communication systems, voltage and current sensing devices, station batteries and DC control circuitry.”

<sup>7</sup> See n.4 *supra*.

<sup>8</sup> During a final review of the standards subsequent to the March 23, 2007 filing of the Version 1 VRFs, NERC identified that some standards requirements were missing VRFs; one of these include PRC-005-1 R2.1. On May 4, 2007, NERC assigned PRC-005 R2.1 a “High” VRF. In the Commission’s June 26, 2007 Order on Violation Risk Factors, the Commission approved the PRC-005-1 R2.1 “High” VRF as filed. Therefore, the “High” VRF was in effect from June 26, 2007.

<sup>9</sup> When NERC filed VRFs for FAC-008-1, NERC originally assigned a “Lower” VRF to FAC-008-1 Requirement R1.1. In the Commission’s November 16, 2007 Order on Violation Risk Factors, the Commission directed modifications. On December 19, 2007, NERC filed the modified “Medium” VRF for FAC-008-1 Requirement R1.1 for approval. On February 6, 2008, the Commission issued an Order approving the modified VRF. Therefore, the

PRC-005-1 R1

On July 1, 2008 after receiving notice on April 4, 2008 of SERC's upcoming audit, SEGCO self-reported its failure to document the bases for its maintenance and testing intervals of its protective relays identified in its maintenance and testing program as required by PRC-005-1 R1.

Subsequently, during the September 16, 2008 audit, the SERC Audit Team found that SEGCO's maintenance and testing program did not include maintenance intervals, the documented bases for its intervals, or a summary of its maintenance and testing procedures for associated communication systems, voltage and current sensing devices, and DC control circuitry resulting in an increased scope of the possible violation of PRC-005-1 R1. In its Mitigation Plan for the possible violation, SEGCO stated that it misinterpreted the scope of the Reliability Standard and did not classify certain equipment as associated communication systems, voltage and current sensing devices, or DC control circuitry. In addition, SEGCO stated that it did not include a reference to associated communication devices in its documentation because no such equipment is installed at its plant.

Following the SERC Audit Team's identification of the possible violation, SERC determined that SEGCO violated PRC-005-1 R1 because of: (1) the findings of the SERC Audit Team that SEGCO failed to include intervals, documented bases for its intervals, and a summary of its maintenance and testing procedures for associated communication systems, voltage and current sensing devices, and DC control circuitry in its maintenance and testing program; and (2) SEGCO's self-reported non-compliance that it did not include the documented bases for its maintenance and testing intervals of its protective relays identified in its maintenance and testing program.

In addition, SERC concluded that, although the SERC Audit Team had confirmed SEGCO had no associated communication devices to test or maintain as part of its Protection System, SEGCO violated PRC-005-1 R1, with respect to associated communication devices, because SEGCO's program documentation did not include a statement clarifying that it did not have these devices.

SERC further concluded that there was no serious or substantial risk to the BPS because, as described below in the discussion regarding the alleged violation of PRC-005-1 R2, subsequent evidence in the form of a scope of work performed from the contractor who performed the maintenance and testing showed the actual maintenance was performed for SEGCO's DC control circuitry and voltage and current sensing devices, and the SERC Audit Team confirmed that SEGCO had no associated communication systems, but SEGCO's documentation of its maintenance and testing program and implementation thereof was deficient.

SERC determined the duration of the PRC-005-1 R1 alleged violation to be from June 18, 2007, when the Reliability Standard became effective, until October 17, 2008, when SEGCO completed its Mitigation Plan.

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"Lower" VRF was in effect from June 18, 2007 until February 6, 2008 and the "Medium" VRF has been in effect since February 6, 2008.

PRC-005-1 R2

During the September 16, 2008 audit, the SERC Audit Team was unable to verify, through documentation, that maintenance and testing was being performed on associated communication systems, voltage and current sensing devices and DC control circuitry resulting in a possible violation of R2. However, the SERC Audit Team confirmed during the on-site audit that maintenance and testing was being performed on the remaining required elements (protective relays and station batteries) listed in the standard.

In addition, SERC confirmed that although SEGCO failed to produce documentation at the time of the September 16, 2008 audit, it was performing functional testing and maintenance and testing for its DC control circuitry and voltage and current sensing devices, based on evidence provided by SEGCO to SERC following the conclusion of the on-site audit. SEGCO did not maintain on-site copies of the document outlining the scope of testing conducted by its vendor, and its vendor was unable to send the documents to SEGCO during the audit period because its offices were closed due to Hurricane Ike in Texas. Once SEGCO received the documentation from its vendor showing that testing procedures and documentation was inclusive of all the Protection System devices that should be maintained and/or tested under PRC-005-1, SEGCO provided it to SERC.

SERC concluded that there was no serious or substantial risk to the BPS because: (1) while SEGCO's program document did not state that it had no associated communication devices, the SERC Audit Team had confirmed SEGCO had no associated communication devices; and (2) subsequent evidence, discussed above, showed SEGCO had performed maintenance and testing on DC Control Circuitry and voltage and current sensing devices, but it was unable to produce the documentation at the time of the audit.

SERC determined the duration for PRC-005-1 R2 to be from September 16, 2008, the date SEGCO was unable to provide evidence of testing at the completion of the on-site audit, until November 5, 2008, when SEGCO ultimately provided evidence indicating that SEGCO had in fact been maintaining and testing its DC Control Circuitry and voltage and current sensing devices throughout the enforceable period.

FAC-008-1 R1.1

During the September 16, 2008 audit, the SERC Audit Team found that SEGCO's Facility Ratings Methodology did not include the statement required in Requirement 1.1 that "a Facility Rating shall equal the most limiting applicable Equipment Rating of the individual equipment that comprises that Facility" resulting in a possible violation of FAC-008-1 R1.1. Following the SERC Audit Team's identification of the possible violation, SERC confirmed that SEGCO's Ratings Methodology failed to include the required statement.

SERC concluded there was no serious or substantial risk to the BPS, because SEGCO's Ratings Methodology respected the most limiting element when rating its facility but simply failed to specifically state that it would continue to do so in subsequent rating of its equipment.

SERC determined the duration for FAC-008-1 R1.1 to be from June 18, 2007, when the Reliability Standard became effective, until January 23, 2009, when SEGCO completed its Mitigation Plan.

SERC has assessed an aggregated penalty of eleven thousand dollars (\$11,000) for these alleged violations. In reaching this determination, SERC considered the following factors: (1) the alleged violations resulted from SEGCO's failure to document; (2) there was no serious or substantial risk to the BPS as discussed above; (3) SEGCO has no violation history for these standards or any closely-related standard; (4) SEGCO cooperated in a timely manner with SERC Staff, providing addition information and assisting in SERC's investigation of the alleged violations; (5) SEGCO self-reported the initial possible violation of PRC-005-1, although its self-initiated efforts failed to completely identify the scope of the issues; and (6) SEGCO did not intend to commit nor did it attempt to conceal the alleged violations, as was evidenced by its initial self-report and its subsequent cooperation. SERC determined that, in this instance, the single, aggregate penalty amount of eleven thousand dollars (\$11,000) is appropriate and bears a reasonable relation to the seriousness and duration of the alleged violations.

### **Status of Mitigation Plans<sup>10</sup>**

#### PRC-005-1 R1

SEGCO's Mitigation Plan to address its self-reported alleged violation of PRC-005-1 R1 was submitted to SERC on July 16, 2008. The Mitigation Plan was accepted by SERC on August 21, 2008 and approved by NERC on September 23, 2008. The Mitigation Plan for this alleged violation is designated as MIT-07-0965 and was submitted as non-public information to FERC on September 23, 2008 in accordance with FERC orders. Upon discovery by the SERC Audit Team of an expanded scope of the alleged violation of PRC-005-1 R1, SEGCO submitted on January 26, 2009 a new Mitigation Plan to address the complete scope of the alleged violation of PRC-005-1 R1, including the initial self-reported deficiency as well as the expanded scope identified in the September 16, 2008 audit. The new Mitigation Plan superseding MIT-07-0965 was accepted by SERC on February 19, 2009 and approved by NERC on March 9, 2009. The new Mitigation Plan for the alleged violation of PRC-005-1 R1, addressing the initial and expanded scope of the alleged violation, was designated as MIT-07-1437 and was submitted as non-public information to FERC on March 10, 2009 in accordance with FERC orders.

SEGCO's Mitigation Plan MIT-07-1437 stated that on October 17, 2008, SEGCO amended its Preventative Maintenance Plan to include intervals, the bases and summary of procedures for certain classes of equipment that had been omitted in the previous version. There were no further actions required by the Mitigation Plan to prevent future non-compliance, because the infrequency of changes to the configuration and operation of the plant and SEGCO's enhanced understanding of the reliability standards made future violations unlikely.

SEGCO certified on January 26, 2009 to SERC that its Mitigation Plan MIT-07-1437 was completed on October 17, 2008. As evidence of completion of the Mitigation Plan, SEGCO submitted a current copy of its Preventative Maintenance Plan titled *08-110 SEGCO (PRC-005)*

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<sup>10</sup> See 18 C.F.R § 39.7(d)(7).

*Test Proc 01-26-09.pdf* – SEGCO’s Preventative Maintenance Schedule that includes intervals, the bases for the intervals and summary procedures for Protection System maintenance and testing for all applicable elements of the Protection Systems to SERC. A SERC Compliance Staff member reviewed the evidence submitted in a manner similar to a compliance audit followed by a second Compliance Staff member’s peer review of the initial conclusion.

On February 20, 2009 SERC verified that Mitigation Plan MIT-07-1437, was completed on October 17, 2008. With the completion of the Mitigation Plan verified, SERC determined that SEGCO was in compliance with PRC-005-1 R1.

#### PRC-005-1 R2

SEGCO’s Mitigation Plan to address its alleged violation of PRC-005-1 R2 was submitted to SERC on February 20, 2009. The plan was accepted by SERC on March 19, 2009 and approved by NERC on March 30, 2009. The Mitigation Plan for this alleged violation is designated as MIT-07-1519 and was submitted as non-public information to FERC on April 1, 2009 in accordance with FERC orders.

SEGCO’s Mitigation Plan stated that it obtained electronic copies of all testing documents and evidence of testing for all devices that should be maintained or tested under PRC-005-1 from the vendor on October 29, 2008 and submitted them to SERC on November 5, 2008. To prevent future violations SEGCO will store testing and evidentiary documentation provided to SEGCO by its vendor on a secure hard drive so that it can be provided to SERC upon request. SEGCO states that it intends to remain in compliance with this standard by retaining all copies of scope of work orders provided to vendors, the resulting testing plans and the final reports resulting from the testing of the facility.

SEGCO certified on February 20, 2009 to SERC that its Mitigation Plan for PRC-005-1 R2 was completed on November 5, 2008.

SERC reviewed the submitted file titled *08-111 SEGCO TEST SCOPE.pdf* that showed the actual work scope completed on the last outage in April 2008. After review, on February 20, 2009, SERC verified that the Mitigation Plan was completed on November 5, 2008, and that SEGCO was in compliance with PRC-005-1 R2.

#### FAC-008-1 R1.1

SEGCO’s Mitigation Plan to address its alleged violation of FAC-008-1 R1.1 was submitted to SERC on January 26, 2009. The plan was accepted by SERC on February 19, 2009 and approved by NERC on March 9, 2009. The Mitigation Plan for this alleged violation is designated as MIT-07-1438 and was submitted as non-public information to FERC on March 10, 2009 in accordance with FERC orders.

SEGCO’s Mitigation Plan stated that on November 5, 2008, it amended its *Facility Ratings Methodology* to include the required explicit limiting equipment statement and to modify the form of documentation. The document was amended again on January 23, 2009 in response to additional guidance from SERC to modify the language of SEGCO’s most-limiting equipment statement to change of the wording from “is” to “will be” to reflect that, if the current

configuration changed to some other most limiting element, that element would dictate the maximum rating. No actions were required to prevent future violations because once the statement was included in the document there was little risk that it would be removed or that the document would be changed.

SEGCO certified on January 26, 2009 to SERC that its Mitigation Plan was completed on January 23, 2009. According to SEGCO's Certification of Completion, both amendments, as discussed above, were approved on the date each was amended.

SERC reviewed SEGCO's *Facility Ratings Methodology*, V3 dated January 23, 2009, that documents SEGCO's procedure for rating its facility, as evidence of SEGCO's completion of its Mitigation Plan and determined that the required most limiting equipment statement was included in the document. Subsequently, on March 5, 2009, SERC verified that the Mitigation Plan was completed on January 23, 2009 and that SEGCO was in compliance with FAC-008-1 R1.1.

## **Statement Describing the Proposed Penalty, Sanction or Enforcement Action Imposed<sup>11</sup>**

### **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,<sup>12</sup> the NERC BOTCC reviewed the Settlement Agreement and supporting documentation on August 3, 2009. The NERC BOTCC approved the Settlement Agreement, including SERC's imposition of a financial penalty of eleven thousand dollars (\$11,000) against SEGCO, based upon SERC's findings and determinations, the NERC BOTCC's review of 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, the NERC BOTCC considered the following factors:

- (1) SEGCO self-reported a possible violation after receiving notification of an upcoming audit and additional possible violations were discovered by SERC during the audit;
- (2) The alleged violations were a result of SEGCO's failure to document as required by the referenced standards;
- (3) There was no serious or substantial risk to the bulk power system for the reasons discussed above;
- (4) The referenced alleged violations are the first violations for SEGCO of NERC Reliability Standards;
- (5) SEGCO was cooperative throughout the entire violation investigation; and
- (6) SEGCO remedied the alleged violations in a timely manner.

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<sup>11</sup> See 18 C.F.R § 39.7(d)(4).

<sup>12</sup> *North American Electric Reliability Corporation*, "Guidance Order on Reliability Notices of Penalty," 124 FERC ¶ 61,015 (2008).



For the foregoing reasons, the NERC BOTCC approves the Settlement Agreement and believes that the proposed eleven thousand (\$11,000) dollar penalty is appropriate for the alleged violations and circumstances in question, and 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.

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

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

- a) SEGCO's self-report dated July 1, 2008, included as Attachment a;
- b) SERC Audit Screening Worksheets, dated September 16, 2008, included as Attachment b;
- c) Settlement Agreement by and between SEGCO and SERC, dated May 21, 2009, included as Attachment c;
  - i) Mitigation Plan designated as MIT-07-1437 for SEGCO's alleged violation of PRC-005-1 R1, dated January 26, 2009, included in the Settlement Agreement as Appendix A-1;
  - ii) SEGCO's Certification of Completion for Mitigation Plan designated as MIT-07-1437 for SEGCO's alleged violation of PRC-005-1 R1, dated January 26, 2009, included in the Settlement Agreement as Appendix A-2;
  - iii) SERC's Verification of Completion for Mitigation Plan designated as MIT-07-1437 for SEGCO's alleged violation of PRC-005-1 R1, dated February 20, 2009, included in the Settlement Agreement as Appendix A-3;
  - iv) Mitigation Plan designated as MIT-07-1519 for SEGCO's alleged violation of PRC-005-1 R2, dated February 20, 2009, included in the Settlement Agreement as Appendix A-4;
  - v) SEGCO's Certification of Completion for Mitigation Plan designated as MIT-07-1519 for SEGCO's alleged violation of PRC-005-1 R2, dated February 20, 2009, included in the Settlement Agreement as Appendix A-5;
  - vi) SERC's Verification of Completion for Mitigation Plan designated as MIT-07-1519 for SEGCO's alleged violation of PRC-005-1 R2, dated February 23, 2009, included in the Settlement Agreement as Appendix A-6;
  - vii) Mitigation Plan designated as MIT-07-1438 for SEGCO's alleged violation of FAC-008-1 R1.1, dated January 26, 2009, included in the Settlement Agreement as Appendix A-7;
  - viii) SEGCO's Certification of Completion for Mitigation Plan designated as MIT-07-1438 for SEGCO's alleged violation of FAC-008-1 R1.1, dated January 26, 2009, included in the Settlement Agreement as Appendix A-8; and
  - ix) SERC's Verification of Completion for Mitigation Plan designated as MIT-07-1438 for SEGCO's alleged violation of FAC-008-1 R1.1, dated March 5, 2009, included in the Settlement Agreement as Appendix A-9.

**A Form of Notice Suitable for Publication<sup>13</sup>**

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

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<sup>13</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:

<p>David N. Cook* Vice President and General Counsel North American Electric Reliability Corporation 116-390 Village Boulevard Princeton, New Jersey 08540-5721 (609)452-8060 (609) 452-9550 – facsimile david.cook@nerc.net</p> <p>President and Chief Executive Officer SERC Reliability Corporation 2815 Coliseum Centre Drive Charlotte, NC 28217 (704) 940-8202 (704) 357-7914 – facsimile</p> <p>Thomas J. Galloway* Vice President and Director of Compliance SERC Reliability Corporation 2815 Coliseum Centre Drive Charlotte, NC 28217 (704) 940-8205 (704) 357-7914 – facsimile tgalloway@serc1.org</p> <p>Kenneth B. Keels, Jr.* Manager of Compliance Enforcement SERC Reliability Corporation 2815 Coliseum Centre Drive Charlotte, NC 28217 (704) 940-8214 (704) 357-7914 – facsimile kkeels@serc1.org</p> <p>Marisa A. Sifontes* Compliance Legal Counsel SERC Reliability Corporation 2815 Coliseum Centre Drive, Suite 500 Charlotte, NC 28217 (704) 494-7775 (704) 357-7914 – facsimile msifontes@serc1.org</p>	<p>Rebecca J. Michael* Assistant General Counsel Holly A. Hawkins* Attorney North American Electric Reliability Corporation 1120 G Street, N.W. Suite 990 Washington, D.C. 20005-3801 (202) 393-3998 (202) 393-3955 – facsimile rebecca.michael@nerc.net holly.hawkins@nerc.net</p> <p>Deborah L. Hart* Vice President South Eastern Generating Corporation 2000 Westchester Avenue Purchase, NY 10577 (914) 225-1430 (212) 507-8843 - facsimile Deborah.Hart@morganstanley.com</p> <p>Robert J. Kalachik* Morgan Stanley &amp; Co. Incorporated 2000 Westchester Avenue Purchase, NY 10577 (914) 225-5788 (212) 507-1902 - facsimile Robert.Kalachik@morganstanley.com</p> <p>*Persons to be included on the Commission's service list are indicated with an asterisk. NERC requests waiver of the Commission's rules and regulations to permit the inclusion of more than two people on the service list.</p>
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## Conclusion

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

Respectfully submitted,

/s/ Rebecca J. Michael

Rebecca J. Michael  
Assistant General Counsel  
Holly A. Hawkins  
Attorney  
North American Electric Reliability  
Corporation  
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David N. Cook  
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cc: South Eastern Generating Corporation  
SERC Reliability Corporation

Attachments

## **Attachment a**

### **SEGCO's Self-Report dated July 1, 2008**



**SERC Reliability Corporation**  
**Self-Reporting / Complaint Form Template**  
**Revision 1 (10-25-07)**

Report Type (please check): X  Self-Report       Complaint

Date of Report: 7/1/2008

NAME OF PERSON REPORTING POSSIBLE STANDARD VIOLATION(S)								
<table border="1" style="width: 100%;"><tr><th style="background-color: #4CAF50; color: white; padding: 2px;">CONTACT NAME</th></tr><tr><td style="padding: 2px;">Dan McElduff</td></tr></table>	CONTACT NAME	Dan McElduff	<table border="1" style="width: 100%;"><tr><th style="background-color: #4CAF50; color: white; padding: 2px;">CONTACT TELEPHONE NUMBER</th></tr><tr><td style="padding: 2px;">914-225-7202</td></tr></table>	CONTACT TELEPHONE NUMBER	914-225-7202			
CONTACT NAME								
Dan McElduff								
CONTACT TELEPHONE NUMBER								
914-225-7202								
<table border="1" style="width: 100%;"><tr><th style="background-color: #4CAF50; color: white; padding: 2px;">CONTACT E-MAIL</th></tr><tr><td style="padding: 2px;"><a href="mailto:daniel.mcelduff@morganstanley.com">daniel.mcelduff@morganstanley.com</a></td></tr></table>	CONTACT E-MAIL	<a href="mailto:daniel.mcelduff@morganstanley.com">daniel.mcelduff@morganstanley.com</a>	<table border="1" style="width: 100%;"><tr><th style="background-color: #4CAF50; color: white; padding: 2px;">CONTACT FAX</th></tr><tr><td style="padding: 2px;">914-750-0656</td></tr></table>	CONTACT FAX	914-750-0656			
CONTACT E-MAIL								
<a href="mailto:daniel.mcelduff@morganstanley.com">daniel.mcelduff@morganstanley.com</a>								
CONTACT FAX								
914-750-0656								
<table border="1" style="width: 100%;"><tr><th style="background-color: #4CAF50; color: white; padding: 2px;">REPORTING COMPANY NAME</th></tr><tr><td style="padding: 2px;">South Eastern Generation Corporation</td></tr></table>	REPORTING COMPANY NAME	South Eastern Generation Corporation	<table border="1" style="width: 100%;"><tr><th style="background-color: #4CAF50; color: white; padding: 2px;">ANONYMOUS? (Y/N)</th></tr><tr><td style="padding: 2px;">N</td></tr></table>	ANONYMOUS? (Y/N)	N			
REPORTING COMPANY NAME								
South Eastern Generation Corporation								
ANONYMOUS? (Y/N)								
N								
NERC OR REGIONAL STANDARD(S) AND SPECIFIC REQUIREMENT(S) POSSIBLY VIOLATED								
<table border="1" style="width: 100%;"><tr><th style="background-color: #4CAF50; color: white; padding: 2px;">NAME OF COMPANY POSSIBLY VIOLATING STANDARD(S)</th></tr><tr><td style="padding: 2px;">South Eastern Generation Corporation</td></tr></table>	NAME OF COMPANY POSSIBLY VIOLATING STANDARD(S)	South Eastern Generation Corporation	<table border="1" style="width: 100%;"><tr><th style="background-color: #4CAF50; color: white; padding: 2px;">ENTITY FUNCTION TYPE(S)</th></tr><tr><td style="padding: 2px;">GO/GOP</td></tr></table>	ENTITY FUNCTION TYPE(S)	GO/GOP			
NAME OF COMPANY POSSIBLY VIOLATING STANDARD(S)								
South Eastern Generation Corporation								
ENTITY FUNCTION TYPE(S)								
GO/GOP								
<table border="1" style="width: 100%;"><tr><th style="background-color: #4CAF50; color: white; padding: 2px;">STANDARD # AND VERSION</th></tr><tr><td style="padding: 2px;">PRC-005-1</td></tr></table>	STANDARD # AND VERSION	PRC-005-1	<table border="1" style="width: 100%;"><tr><th style="background-color: #4CAF50; color: white; padding: 2px;">MEASURE / REQUIREMENT</th></tr><tr><td style="padding: 2px;">R1.1</td></tr></table>	MEASURE / REQUIREMENT	R1.1	<table border="1" style="width: 100%;"><tr><th style="background-color: #4CAF50; color: white; padding: 2px;">DATE OF POSSIBLE VIOLATION(S)</th></tr><tr><td style="padding: 2px;">7/1/2008</td></tr></table>	DATE OF POSSIBLE VIOLATION(S)	7/1/2008
STANDARD # AND VERSION								
PRC-005-1								
MEASURE / REQUIREMENT								
R1.1								
DATE OF POSSIBLE VIOLATION(S)								
7/1/2008								
POSSIBLE VIOLATION DESCRIPTION, REASON FOR COMPLAINT, OR QUESTION								
Specific basis is not identified for maintenance and testing intervals for each element.								
RELIABILITY IMPACT (IF KNOWN)								
We do not believe that there is a reliability impact from this violation as there is a testing program in place which has been completed.								

**SERC Staff will contact the person providing the report as soon as possible.**  
**If you do not receive a response from SERC Staff within 2 business days please contact the SERC office (704-357-7372).**

**Please complete the form as completely as possible and email to [serccomply@serc1.org](mailto:serccomply@serc1.org).**

**Attachment b**

**SERC Audit Screening Worksheets, dated  
September 16, 2008**

## Screening Worksheet

Tracking Number

Entity Name
South Eastern Generating Company

Is Entity Registered?
Yes

Entity Contact
Patrick Murray

Entity Telephone Number
914 225-1435

Standard	Requirement
PRC-005-1	R1

Is Issue Still Occurring?
Yes

Remedial Action Directive?
No

Date Issue Occurred
6/18/07

Date Issue/Event Reported
9/16/08

Method of Discovery
Audit

NERC 48-Hour Reportable?
No

Threat to BES?
No

Alleged Violation Applies to:													
BA	DP	GO	GOP	LSE	PA	PSE	RC	RP	RSG	TO	TOP	TP	TSP
		Yes	Yes										

Brief Description
<p>Entity's Transmission and Generation Protection Maintenance and Testing Program does not identify intervals, bases for intervals or provide a summary of maintenance and testing procedures for associated communications equipment, current and voltage sensing devices or DC control circuitry.</p>

Detailed Description
<p>Entity's Transmission and Generation Protection Maintenance and Testing Program does not identify intervals, bases for intervals or provide a summary of maintenance and testing procedures for associated communications equipment, current and voltage sensing devices or DC control circuitry.</p> <p>Documentation of protection system maintenance, performed and supplied by an outside contractor, does not identify any maintenance or testing routines that indicate maintenance is being performed on these devices.</p> <p>The entity's PM Program documentation indicates that Motor Control Center and Panelboards are being cleaned and that terminal connections are being checked for tightness on a periodic basis.</p> <p>The maintenance contractor was unable to provide additional documentation at the time of the audit due to the impacts of hurricane Ike.</p>

Prepared By	Date
James Harrell	9/16/08



## Screening Worksheet

Tracking Number

Entity Name
South Eastern Generating Company

Is Entity Registered?
Yes

Entity Contact
Patrick Murray

Entity Telephone Number
914 225-1435

Standard	Requirement
PRC-005-1	R2

Is Issue Still Occurring?
Yes

Remedial Action Directive?
No

Date Issue Occurred
6/18/07

Date Issue/Event Reported
9/16/08

Method of Discovery
Audit

NERC 48-Hour Reportable?
No

Threat to BES?
No

Alleged Violation Applies to:													
BA	DP	GO	GOP	LSE	PA	PSE	RC	RP	RSG	TO	TOP	TP	TSP
		Yes	Yes										

Brief Description
<p>The audit team was unable to verify that maintenance and testing activities are being performed on associated communications equipment, current and voltage sensing devices or DC control circuitry.</p>

Detailed Description
<p>The audit team was unable to verify that maintenance and testing activities are being performed on associated communications equipment, current and voltage sensing devices or DC control circuitry.</p> <p>Intervals for maintenance of these protection system devices are not identified in the entity's Protection System Maintenance and Testing Program.</p> <p>Documentation of protection system maintenance, performed and supplied by an outside contractor, does not identify any maintenance or testing routines that indicate maintenance is being performed on these devices.</p> <p>The entity's PM Program documentation indicates that Motor Control Center and Panelboards are being cleaned and that terminal connections are being checked for tightness on a periodic basis.</p> <p>The maintenance contractor was unable to provide additional documentation at the time of the audit due to the impacts of hurricane Ike.</p>

Prepared By	Date
James Harrell	9/16/08

## Screening Worksheet

Tracking Number

Entity Name
South Eastern Generating Company

Is Entity Registered?
Yes

Entity Contact
Patrick Murray

Entity Telephone Number
914 225-1435

Standard	Requirement
FAC-008-1	R1

Is Issue Still Occurring?
Yes

Remedial Action Directive?
No

Date Issue Occurred
6/18/07 ?

Date Issue/Event Reported
9/16/08

Method of Discovery
Audit

NERC 48-Hour Reportable?
No

Threat to BES?
No

Alleged Violation Applies to:													
BA	DP	GO	GOP	LSE	PA	PSE	RC	RP	RSG	TO	TOP	TP	TSP
		Yes	Yes										

Brief Description
Entity did not have a documented Facility Rating Methodology prior to June 2008. Current FRM does not include the required "most limiting component" statement

Detailed Description
<p>Entity did not have a documented Facility Rating Methodology prior to June 2008. Prior to this time, they relied on manufacturer's ratings for the "packaged" facility. The facility was originally erected in Venezuela, consequently sold and move to its present location in 2000. At the time of relocation auxiliary equipment was updated, making the "packaged" rating obsolete. (There were no upgrades made to electrical equipment between the generator and GSU).</p> <p>The current FRM meets a bare minimum expectation, based on ratings established by equipment manufacturers and included in their Plant Operating Manual, but does not include the "most limiting equipment" statement required in R1.1.</p>

Prepared By	Date
James Harrell	9/16/08

**Attachment c**

**Settlement Agreement by and between SEGCO  
and SERC executed May 21, 2009**

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**SETTLEMENT AGREEMENT**

**OF**

**SERC RELIABILITY CORPORATION**

**AND**

**SOUTH EASTERN GENERATING CORPORATION**

**I. Introduction**

1. SERC Reliability Corporation (“SERC”) and South Eastern Generating Corporation (“SEGCO”) enter into this Settlement Agreement (“Settlement 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 alleged violations by SEGCO of NERC Reliability Standards FAC-008-1 (Facility Ratings Methodology), Requirement 1 (SERC Tracking No. 08-112, NERC Violation ID No. SERC200800196), PRC-005-1 (Transmission and Generation Protection System Maintenance and Testing), Requirement 1 (SERC Tracking Nos. 08-082 and 08-110, NERC Violation ID Nos. SERC200800156 and SERC200800194) and Requirement 2 (SERC Tracking No. 08-111, NERC Violation ID No. SERC200800195).

**II. Stipulation**

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

**Background**

3. SEGCO is an Exempt Wholesale Generator, as defined under 15 USC 79 Section 32. SEGCO is a wholly-owned subsidiary of Morgan Stanley Capital Group Inc. which is a direct, wholly-owned subsidiary of Morgan Stanley, a large and diversified global financial services firm. Its corporate headquarters is located in New York,

New York. SEGCO is registered as a Generation Owner (“GO”), and a Generation Operator (“GOP”) (NCR01314). SEGCO is therefore subject to the requirements of NERC Reliability Standards FAC-008-1 and PRC-005-1.

4. SEGCO owns and operates a 70 MW generating plant located in Bainbridge, GA.

#### **Alleged Violation(s)**

5. NERC Reliability Standard FAC-008-1 (Facilities Ratings Methodology), Requirement 1 requires, among other things, that “The 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. The methodology shall include all of the following: R1.1. A statement that a Facility Rating shall equal the most limiting applicable Equipment Rating of the individual equipment that comprises that Facility.”<sup>1</sup>
6. NERC Reliability Standard PRC-005-1 (Transmission and Generation Protection System Maintenance and Testing) Requirement 1 requires, among other things, that “Each Transmission Owner and any Distribution Provider that owns a transmission Protection System and each Generator Owner that owns a generation Protection System shall have a Protection System maintenance and testing program for Protection Systems that affect the reliability of the BES. The program shall include: R1.1. Maintenance and testing intervals and their basis. R1.2. Summary of maintenance and testing procedures.”<sup>2</sup>
7. NERC Glossary of Terms defines “Protection System” as used in Reliability Standard PRC-005-1 as “Protective relays, associated communication systems, voltage and current sensing devices, station batteries and DC control circuitry.”<sup>3</sup>
8. On July 1, 2008, SEGCO originally self-reported a possible violation of PRC-005-1, Requirement 1 stating it did not have documented bases for its maintenance and testing intervals of its protective relays identified in its maintenance and testing program.

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<sup>1</sup> NERC Standard FAC-008-1 – Facility Ratings Methodology, approved by NERC Board of Trustees on February 7, 2006, approved by FERC effective June 18, 2007.

<sup>2</sup> NERC Standard PRC-005-1 – Transmission and Generation Protection System Maintenance and Testing, approved by NERC Board of Trustees on February 7, 2006, approved by FERC effective June 18, 2007.

<sup>3</sup> NERC Glossary of Terms used in Reliability Standards, approved by NERC Board of Trustees on February 7, 2006, approved by FERC effective June 18, 2007.

9. On September 16, 2008, SERC auditors executed a previously scheduled audit of SEGCO's compliance with NERC Reliability Standards. SERC auditors identified three additional possible violations of NERC Reliability Standards: 2 additional possible violations involving NERC Reliability Standard PRC-005-1, Requirements 1 and 2, and 1 possible violation of NERC Reliability Standard FAC-008-1, Requirement 1.
10. With respect to PRC-005-1, SERC auditors found SEGCO's maintenance and testing program did not include intervals, documented bases for its intervals, or a summary of its maintenance and testing procedures for associated communication systems, voltage and current sensing devices, and DC control circuitry; a possible violation of Requirement 1. Additionally, SERC auditors were unable to verify, through documentation, that the maintenance and testing were being performed on associated communication equipment systems, voltage and current sensing devices, and DC control circuitry, a possible violation of Requirement 2, although the auditors confirmed maintenance and testing was being performed on the remaining required elements listed in the standard.
11. With respect to FAC-008-1, SERC auditors found SEGCO's Facility Ratings Methodology did not include the statement required in Requirement 1.1 that "a Facility Rating shall equal the most limiting applicable Equipment Rating of the individual equipment that comprises that Facility."
12. Following its receipt and review of SEGCO's self-report, SERC confirmed SEGCO's NERC Registration Status as a Generation Owner and that SEGCO was subject to the requirements of NERC Reliability Standard PRC-005-1. Once the possible violation of NERC Reliability Standard FAC-008-1 was identified, SERC confirmed that SEGCO was also subject to the Requirements of FAC-008-1 due to its NERC Registration Status.
13. After confirming SEGCO's NERC Registration Status, SERC commenced its investigation into the self-reported possible violation of PRC-005-1. Prior to completing its investigation of the self-reported issues, SERC executed a previously scheduled compliance audit of SEGCO resulting in the identification of additional possible violations of PRC-005-1 and expanding the scope of the open investigation regarding the possible violation of FAC-008-1.
14. Acting under the expanded scope, SERC confirmed through interaction with SEGCO that:
  - a. With respect to FAC-008-1, SEGCO:
    - i. did not include a statement that a Facility Rating shall equal the most limiting applicable Equipment Rating of the individual equipment that comprises that Facility.

- b. With respect to PRC-005-1, SEGCO:
    - i. failed to have documented bases for its maintenance intervals for maintenance and testing of protective relays of Protection System s affecting the reliability of the Bulk Power System.
    - ii. did not include intervals, documented bases for its intervals, or a summary of its maintenance and testing procedures for associated communication systems, voltage and current sensing devices, and DC control circuitry in its maintenance and testing program.
    - iii. did provide evidence that it was performing functional testing, and maintenance and testing of dc control circuitry. Although SEGCO does not have any associated communication equipment, its documentation did not specifically state the absence of this equipment. This evidence was not available at the time of the compliance audit, but was provided subsequent to the completion of the audit.
15. As a result of its investigation, SERC concluded that the facts and evidence supported a finding that SEGCO:
- a. violated Requirement 1 of FAC-008-1 because evidence showed that SEGCO's Ratings Methodology failed to include a statement that a Facility Rating shall equal the most limiting applicable Equipment Rating of the individual equipment that comprises that Facility. NERC Reliability Standard FAC-008-1, Requirement 1, has a "Medium" Violation Risk Factor ("VRF"). SERC further concluded that there was inconsequential actual or foreseeable impact on the reliable operation of the bulk-power system because SEGCO's Rating s Methodology respected the most limiting element when rating its facility, but simply failed to specifically state that it would continue to do so in subsequent rating of its equipment.
  - b. violated Requirement R1 of PRC-005-1 because evidence showed that SEGCO failed to have documented bases for its maintenance intervals for maintenance and testing of protective relays of Protection Systems affecting the reliability of the Bulk Power System and did not include intervals, documented bases for its intervals, or a summary of its maintenance and testing procedures for associated communication systems, voltage and current sensing devices, and DC control circuitry in its maintenance and testing program. NERC Reliability Standard PRC-005-1, Requirement R1, has a "High" Violation Risk Factor ("VRF"). SERC further concluded that there was minimal actual and foreseeable impact on the reliable operation of the bulk-power system because subsequent evidence in the form of a scope of work performed from the contractor who performed the maintenance and testing showed the actual maintenance was performed, but documentation of maintenance and testing program was deficient.

- c. violated Requirement 2 of PRC-005-1 because SEGCO failed to provide evidence Protection System devices were maintained and tested within the defined intervals for associated communication systems. NERC Reliability Standard PRC-005-1, Requirement 2, has a “High” Violation Risk Factor (“VRF”). SERC further concluded that there was minimal actual or foreseeable impact on the reliable operation of the bulk-power system because the SERC audit team had confirmed SEGCO had no Protection System associated communication devices, but its documentation related to these devices was deficient.
- d. violated Requirement R2 of PRC-005-1 because SEGCO failed to provide evidence at the time of an audit that it was performing functional testing, and maintenance and testing of dc control circuitry, and voltage and current sensing devices. SERC further concluded that there was minimal actual and foreseeable impact on the reliable operation of the bulk-power system because subsequent evidence in the form of a scope of work performed from the contractor who performed the maintenance and testing showed SEGCO had performed maintenance on these devices, but it was unable to produce the documentation at the time of the audit.

### **III. PARTIES’ SEPARATE REPRESENTATIONS**

#### **STATEMENT OF SERC AND SUMMARY OF FINDINGS**

- 16. SEGCO was not subject to the NERC Reliability Standards prior to the mandatory enforcement period beginning on June 18, 2007. Since the effective date of the NERC Reliability Standards, SEGCO has worked to incorporate the NERC Reliability Standards into its existing corporate compliance program. SEGCO is continuing to augment its program to address compliance with the NERC Reliability Standards. SEGCO was cooperative in SERC’s investigation process and during the onsite audit conducted in September. SEGCO showed good faith efforts in self-reporting the gap discovered in its compliance through its self report, although its efforts did not identify several deficiencies uncovered during the compliance audit.
- 17. SERC finds that for a period beginning on June 18, 2007, and continuing until fully mitigated, as indicated below, SEGCO:
  - a. violated Requirement 1 of FAC-008-1 because SEGCO’s Ratings Methodology failed to include a statement that a Facility Rating shall equal the most limiting applicable Equipment Rating of the individual equipment that comprises that Facility. This was confirmed by SERC as being mitigated on January 23, 2009.
  - b. violated Requirement 1 of PRC-005-1 because SEGCO’s documentation did not include the required bases for the maintenance intervals for maintenance and testing of protective relays of Protection Systems affecting the reliability of the



Bulk Power System and did not include intervals, documented bases for its intervals, or a summary of its maintenance and testing procedures for associated communication systems, voltage and current sensing devices, and DC control circuitry in its maintenance and testing program. This was confirmed by SERC as being mitigated on October 17, 2008.

- c. violated Requirement R2 of PRC-005-1 because SEGCO failed to provide evidence during the audit that its Protection System devices were maintained and tested within the defined intervals for associated communication systems, and voltage and current sensing devices. This was confirmed by SERC as being mitigated on November 5, 2008.

Additionally, for the period from the time of conclusion of the on-site audit, September 16, 2008 until November 5, 2008, when it ultimately provided evidence to support compliance, SEGCO:

- d. failed to provide evidence that it was performing functional testing, and maintenance and testing of dc control circuitry, and voltage and current sensing devices.
18. SERC considered a number of factors in determining the penalty for this violation.
- a. SEGCO has no violation history for this standard or any closely-related standard.
  - b. SEGCO cooperated in a timely manner with SERC Staff, providing additional information and assisting in SERC's investigation of the alleged violations.
  - c. SEGCO self-reported the initial violation of PRC-005-1, although its self-initiated efforts failed to completely identify the scope of the issues.
  - d. SEGCO did not intend to commit nor did it attempt to conceal the alleged violations, as was evidenced by its initial self-report and its subsequent cooperation.
19. SERC 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 SEGCO**

20. SEGCO neither admits nor denies that the facts set forth and agreed to by the parties for purposes of this Settlement Agreement constitute violations of Reliability Standard FAC-008-1 and PRC-005-1.

21. SEGCO's intent was and remains to be in compliance with these and all other Reliability Standards.
22. Although SEGCO does not admit to, nor does it deny, the alleged violations, SEGCO has agreed to enter into this Settlement 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. SEGCO agrees that this Settlement Agreement is in the best interest of the parties and in the best interest of bulk-power system reliability.

#### **IV. MITIGATING ACTIONS, REMEDIES AND SANCTIONS**

23. On July 16, 2008, SEGCO submitted a Mitigation Plan associated with original self-report of the alleged violation of PRC-005-1, R1 detailing the steps it would take to restore compliance with the NERC Reliability Standard. The Mitigation Plan was accepted by SERC on August 21, 2008 and approved by NERC on September 23, 2008. The Mitigation Plan is identified as MIT-07-0965 and was submitted as non-public information to the Federal Energy Regulatory Commission (the "Commission") on September 23, 2008 in accordance with Commission orders. The identification of additional scope associated with the compliance with PRC-005-1 as discovered during the audit of SEGCO required the completion of this Mitigation Plan and the restoration of compliance with PRC-005-1 to be delayed until the completion of the Mitigation Plan MIT-07-1437.

On January 26, 2009, SEGCO submitted a Mitigation Plan associated with the alleged violation of PRC-005-1, R1 detailing the steps it had taken to restore compliance with the NERC Reliability Standard. The Mitigation Plan was accepted by SERC on February 19, 2009 and approved by NERC on March 9, 2009. The Mitigation Plan is identified as MIT-07-1437 and was submitted as non-public information to the Federal Energy Regulatory Commission (the "Commission") on March 10, 2009 in accordance with Commission orders. SEGCO submitted its Certification of Mitigation Plan Completion associated with this Mitigation Plan on January 26, 2009 in which it certified that the Mitigation Plan was completed on October 17, 2008. SERC verified the completion of the Mitigation Plan and the restoration of compliance with the NERC Reliability Standard on February 20, 2009.

On November 5, 2008, SEGCO submitted evidence in the form of a scope of work performed from the contractor who performed the maintenance and testing indicating it had been compliant with the NERC Reliability Standard PRC-005-1, R2 through the period covered by the audit conducted on September 16, 2008. On February 20, 2009, SEGCO submitted a Mitigation Plan associated with the alleged violation of PRC-005-1, R2 detailing the steps it was taking to ensure the continued compliance with the NERC Reliability Standard. The Mitigation Plan was accepted by SERC on March 19, 2009 and approved by NERC on March 30, 2009. The

Mitigation Plan is identified as MI T-07-1519 and was submitted as non-public information to the Commission on April 1, 2009 in accordance with Commission orders. SEGCO submitted its Certification of Mitigation Plan Completion associated with this Mitigation Plan on February 20, 2009, in which it certified that the Mitigation Plan was completed on November 5, 2008. SERC verified the completion of the Mitigation Plan and the restoration of compliance with the NERC Reliability Standard on February 20, 2009.

On January 26, 2009, SEGCO submitted a Mitigation Plan associated with the alleged violation of FAC-008-1, R1 detailing the steps it had taken to restore compliance with the NERC Reliability Standard. The Mitigation Plan was accepted by SERC on February 19, 2009 and approved by NERC on March 9, 2009. The Mitigation Plan is identified as MI T-07-1438 and was submitted as non-public information to the Commission on March 10, 2009 in accordance with Commission orders. SEGCO submitted its Certification of Mitigation Plan Completion associated with this Mitigation Plan on January 26, 2009, in which it certified that the Mitigation Plan was completed on January 23, 2009. SERC verified the completion of the Mitigation Plan and the restoration of compliance with the NERC Reliability Standard on March 5, 2009.

24. For purposes of settling any and all disputes arising from SERC's assessment into the matters reported by SEGCO in its self-report, and other matters identified at the compliance audit of September 16, 2008, SERC and SEGCO agree that SEGCO has appropriately mitigated the issues in accordance with the mitigation plans submitted to SERC, SEGCO has supplied SERC with a letter certifying that it has completed implementation of the mitigation plans accepted by SERC and approved by NERC, as described in this Settlement Agreement, and SERC has verified that SEGCO completed the mitigation plans and achieved compliance with the Reliability Standards addressed by this Settlement Agreement. SEGCO's Mitigation Plans, its Certifications of Mitigation Plan Completion and the Statements of SERC Reliability Corporation Compliance Staff Regarding Completion of Mitigation Plan are attached hereto as Appendix A-1 through A-9.
25. In addition to the mitigating actions described above and detailed in paragraph 26, SEGCO shall pay \$ 11,000 to SERC. SEGCO shall remit the payment to SERC via check, or by wire transfer to an account to be identified by SERC ("SERC Account"), within twenty days after SERC provides SEGCO with a notice of penalty payment due and invoice, to be issued by SERC after this Settlement Agreement is either approved by the Commission or by operation of law. SERC shall notify NERC, and NERC shall notify the Commission, if the payment is not timely received. If SEGCO does not remit the payment by the required date, interest payable to SERC will begin to accrue pursuant to the Commission's regulations at 18 C.F.R. §35.19a(a)(2)(iii) from the date that payment is due, and shall be payable in addition to the payment.

26. SERC and SEGCO agree that SEGCO has completed the following actions as detailed in its mitigation plans:

	<b>Activity</b>		<b>Date completed</b>
1	<b>Modify Preventative Maintenance Plan</b>		
	A	SEGCO amended its Preventative Maintenance Plan to include intervals, basis and summary of procedures for certain classes of equipment that had been omitted in the previous version.	October 17, 2008
2	<b>Obtain and Retain Documentation</b>		
	A	SEGCO obtained electronic copies of all testing documents and evidence from the vendor and provided them to SERC.	November 5, 2008
	B	SEGCO intends to remain in compliance with this standard by retaining all copies of scope of work orders provided to vendors, the resulting testing plans and the final reports resulting from the testing of the facility.	Continuous
3	<b>Modify Facility Ratings Methodology</b>		
	On November 5, 2008, SEGCO amended its Facility Ratings Methodology to address the findings of SERC audit staff by including the required explicit limiting equipment statement and modifying the form of documentation. The document was amended again on January 23, 2009 in response to additional guidance from enforcement staff.		January 23, 2009

SERC has reviewed the various actions described in the above mitigation plans and determined that, SEGCO is currently in compliance with FAC-008-1 and PRC-005-1. These measures will assist SEGCO in complying with the requirements of FAC-008-1 and PRC-005-1 in the future and in doing so, will ultimately enhance the reliability of the bulk-power system.

27. In support of the closure of its mitigation plans, SEGCO submitted and SERC reviewed the following documentation:

Issue	Document	Description
PRC-005-1, R1	08-113 SEGCO (PRC-005) Test Proc 01-26-09.pdf	SEGCO's Preventative Maintenance Schedule that includes intervals, the bases for the intervals, and summary procedures for Protection System maintenance and testing required by PRC-005-1.
PRC-005-1, R2	08-114 SEGCO TEST SCOPE.pdf	Documentation showing the actual work scope completed on the last outage in April 2008.
FAC-008-1, R1	SEGCO's Facility Ratings Methodology V3, dated January 23, 2009	SEGCO's documented Facility Rating Methodology including all the requirements of FAC-008-1.

28. SERC considered the specific facts and circumstances of the alleged violation and SEGCO's actions in response to the alleged violation in determining a proposed penalty that meets the requirement in Section 215 of the Federal Power Act that "[a]ny penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of [SEGCO] to remedy the violation in a timely manner."<sup>4</sup> The applicable factors taken into consideration by SERC include, but are not limited to, the following:

- a. The minimal actual or foreseeable impact on the reliable operation of the bulk-power system due to the alleged violation;
- b. The absence of a prior violation by SEGCO of the same or a closely-related standard;
- c. SEGCO's timely and commendable cooperation with SERC during the investigation;
- d. SEGCO's lack of intent to commit or to conceal the alleged violation;

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<sup>4</sup> 16 U.S.C. §824o(e)(6).

- e. The presence and commitment of SEGCO's compliance program; and
- f. The prompt mitigation implemented by SEGCO to correct the alleged violation and to protect against future violations of the same requirement.

Based on the above factors, as well as the mitigation actions taken, SEGCO shall pay \$ 11,000 to SERC as set forth in this Settlement Agreement.

- 29. 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, may subject SEGCO to new or additional enforcement, penalty or sanction actions in accordance with the NERC Rules of Procedure.

## **V. ADDITIONAL TERMS**

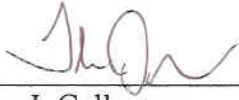
- 30. The signatories to the Settlement Agreement agree that they enter into the Settlement Agreement voluntarily and that, other than the recitations set forth herein, no tender, offer or promise of any kind by any member, employee, officer, director, agent or representative of SERC or SEGCO has been made to induce the signatories or any other party to enter into the Settlement Agreement. The signatories agree that the terms and conditions of this Settlement Agreement are consistent with the Commission's regulations and orders, and NERC's Rules of Procedure.
- 31. 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 SEGCO 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 SEGCO 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 this Settlement Agreement.
- 32. This Settlement Agreement shall become effective upon the Commission's approval of the Settlement Agreement by order or operation of law as submitted to it or as modified in a manner acceptable to the parties.
- 33. SEGCO agrees that this Settlement Agreement, when approved by NERC and the Commission without material modification, shall represent a final settlement of all matters set forth herein and SEGCO waives its right to further hearings and appeal,

unless and only to the extent that SEGCO contends that any NERC or Commission action on the Settlement Agreement contains one or more material modifications to the Settlement Agreement. SERC reserves all rights to initiate enforcement, penalty or sanction actions against SEGCO in accordance with the NERC Rules of Procedure in the event that SEGCO fails to comply with the mitigation plan and compliance program agreed to in this Settlement Agreement. In the event SEGCO fails to comply with any of the stipulations, remedies, sanctions or additional terms, as set forth in this Settlement Agreement, SERC will initiate enforcement, penalty, or sanction actions against SEGCO to the maximum extent allowed by the NERC Rules of Procedure, up to the maximum statutorily allowed penalty. Except as otherwise specified in this Settlement Agreement, SEGCO shall retain all rights to defend against such enforcement actions, also according to the NERC Rules of Procedure.

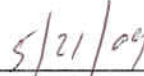
34. Each of the undersigned warrants that he or she is an authorized representative of the entity designated, is authorized to bind such entity and accepts the Settlement Agreement on the entity's behalf.
35. The undersigned representative of each party affirms that he or she has read the Settlement Agreement, that all of the matters set forth in the Settlement Agreement are true and correct to the best of his or her knowledge, information and belief, and that he or she understands that the Settlement 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 Settlement Agreement.
36. The Settlement Agreement may be signed in counterparts.
37. This Settlement 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:



\_\_\_\_\_  
Thomas J. Galloway  
Vice President and Director of Compliance  
**SERC RELIABILITY CORPORATION ("SERC")**



\_\_\_\_\_  
Date



\_\_\_\_\_  
Deborah L. Hart  
Vice President  
**SOUTH EASTERN GENERATING CORPORATION ("SEGCO")**



\_\_\_\_\_  
Date



**APPENDIX A  
TO  
SETTLEMENT AGREEMENT  
OF  
SERC RELIABILITY CORPORATION  
AND  
SOUTH EASTERN GENERATING CORPORATION**

- (1) SEGCO'S Mitigation Plan for PRC-005-1, R1**
- (2) SEGCO's Certification of Mitigation Plan Completion for PRC-005-1, R1**
- (3) Statement of SERC Reliability Corporation Compliance Staff Regarding Completion of SEGCO's Mitigation Plan for PRC-005, R1**
- (4) SEGCO'S Mitigation Plan for PRC-005-1, R2**
- (5) SEGCO's Certification of Mitigation Plan Completion for PRC-005-1, R2**
- (6) Statement of SERC Reliability Corporation Compliance Staff Regarding Completion of SEGCO's Mitigation Plan for PRC-005, R2**
- (7) SEGCO'S Mitigation Plan for FAC-008-1**
- (8) SEGCO's Certification of Mitigation Plan Completion for FAC-008-1**
- (9) Statement of SERC Reliability Corporation Compliance Staff Regarding Completion of SEGCO's Mitigation Plan for FAC-008-1**



## Mitigation Plan Submittal Form

Date this Mitigation Plan is being submitted: 1/26/2009

If this Mitigation Plan has already been completed:

- Check this box  and
- Provide the Date of Completion of the Mitigation Plan: 10/17/08

### Section A: Compliance Notices<sup>1</sup>

- Section 6.2 of the CMEP<sup>2</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 2.0.
  - (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.

<sup>1</sup> This document will become part of the public record to be included in the Notice of Penalty filing to be submitted to the Federal Energy Regulatory Commission (Commission) upon determination that a confirmed violation has occurred or in the event a settlement agreement is reached between the Registered Entity and the Regional Entity. The entire document will be submitted as part of the public record, unless the Registered Entity marks specific information as confidential Critical Energy Infrastructure Information or Privileged Information in accordance with the NERC Rules of Procedure Section 1500 and the Commission's regulations, rules and orders. The Registered Entity must provide adequate justification supporting designation of information that is submitted to the Commission as Confidential Information. Until such time as this document is submitted to the Commission, it will remain confidential within NERC and the Regional Entity compliance organization pursuant to Section 1500 of the Rules of Procedure.

<sup>2</sup> "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.

# Appendix A-1



- (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) 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 shall be used to provide a required Mitigation Plan for review and approval by SERC and NERC.
  - The Mitigation Plan shall be submitted to SERC 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 violations of one Reliability Standard. A separate mitigation plan is required to address violations with respect to each additional Reliability Standard, as applicable.
  - If the Mitigation Plan is approved by SERC and 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.
  - SERC 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.

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

B.1 Identify your organization:

Company Name: South Eastern Generating Corporation ("SEGCO")

Company Address: 2000 Westchester Avenue, Purchase, NY 10577

NERC Compliance Registry ID *[if known]*: NCR01314

B.2 Identify the individual in your organization who will serve as the Contact to SERC regarding this Mitigation Plan. This person shall be technically knowledgeable regarding this Mitigation Plan and authorized to respond to SERC regarding this Mitigation Plan.

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Name: Robert Kalachik  
Title: Vice President  
Email: robert.kalachik@morganstanley.com  
Phone: 914-225-5788



**Section C: Identity of Reliability Standard Violations Associated with this Mitigation Plan**

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

C.1 Standard: PRC-005-1  
*[Identify by Standard Acronym (e.g. FAC-001-1)]*

C.2 Requirement(s) violated and violation dates:  
*[Enter information in the following Table]*

NERC Violation ID # [if known]	SERC Violation ID # [if known]	Requirement Violated (e.g. R3.2)	Violation Date <sup>(*)</sup>
SERCYYYYnnnnn	YYYY-nnn	R1	06/18/2007

(\*) Note: The Violation Date shall be: (i) the date that the violation occurred; (ii) the date that the violation was self-reported; or (iii) the date that the violation has been deemed to have occurred on by SERC. Questions regarding the date to use should be directed to SERC.

C.3 Identify the cause of the violation(s) identified above:

The reliability standard requires formally documented intervals, basis and a summary of procedures for maintenance and testing of Voltage and Current Sensing Devices, Associated Communications Systems, or DC Control Circuitry. In certain cases, SEGCO misinterpreted the scope of the reliability standard and did not classify certain equipment as Voltage and Current Sensing Devices, Associated Communications Systems, or DC Control Circuitry.

In addition, SEGCO did not include a reference to Associated Communication Devices in its documentation because no such equipment is installed at the plant.  
*[Provide your response here; additional detailed information may be provided as an attachment as necessary]*

## Appendix A-1



C.4 **[Optional]** Provide any relevant additional information regarding the violations associated with this Mitigation Plan:

[Provide your response here; additional detailed information may be provided as an attachment as necessary]



**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 violations identified above in Part C.2 of this form:

On October 17, 2008, SEGCO amended its Preventative Maintenance Plan to include intervals, basis and summary of procedures for certain classes of equipment that had been omitted in the previous version.  
 [Provide your response here; additional detailed information may be provided as an attachment as necessary]

**Check this box  and proceed to Section E of this form if this Mitigation Plan, as set forth in Part D.1, has already been completed; otherwise respond to Part D.2, D.3 and, optionally, Part D.4, below.**

**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:

D.3 Enter Milestone Activities, with completion dates, that your organization is proposing for this Mitigation Plan:

Milestone Activity	Proposed Completion Date* (shall not be more than 3 months apart)

(\* ) 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.

[Note: Provide your response here; additional detailed information may be provided as an attachment as necessary]



**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:

[Provide your response here; additional detailed information may be provided as an attachment as necessary]

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

***Check this box  and proceed and respond to Part E.2 and E.3, below, if this Mitigation Plan, as set forth in Part D.1, has already been completed.***

**Abatement of Interim BPS Reliability Risk**

E.1 While your organization is implementing the Mitigation Plan proposed in Part 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:

[Provide your response here; additional detailed information may be provided as an attachment as necessary]

**Prevention of Future BPS Reliability Risk**

E.2 Describe how successful completion of the Mitigation Plan as laid out in Part 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:

Completion of the mitigation plan addressed the possible violation identified by the SERC audit team by including additional equipment as Protective Devices along with the intervals and basis for maintenance and testing. The amendments were made to the preventative maintenance plan which serves as a



## Appendix A-1



summary of maintenance and testing procedures. Given the infrequency of changes to the configuration and operation of the plant and SEEDCO's enhanced understanding of the reliability standards, it is unlikely that future violations will occur.

[Provide your response here; additional detailed information may be provided as an attachment as necessary]

- E.3 Your organization may be taking or planning other action, beyond that listed in the Mitigation Plan, as proposed in Part D.1, to prevent or minimize the probability of incurring further violations of the same or similar standards requirements listed in Part C.2, or of other reliability standards. If so, identify and describe any such action, including milestones and completion dates:

[Provide your response here; additional detailed information may be provided as an attachment as necessary]

Continued on Next Page



**Section F: Authorization**

An authorized individual must sign and date this Mitigation Plan Submittal Form. By doing so, this individual, on behalf of your organization:

- a) Submits the Mitigation Plan, as laid out in Section D of this form, to SERC for acceptance by SERC 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 of South Eastern Generating Corporation.
  - 2. I am qualified to sign this Mitigation Plan on behalf of South Eastern Generating Corporation.
  - 3. I have read and understand South Eastern Generating Corporation 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. South Eastern Generating Corporation agrees to be bound by, and comply with, the Mitigation Plan, including the timetable completion date, as approved by SERC and approved by NERC.

**Authorized Individual Signature**

A handwritten signature in blue ink that reads 'Deborah L. Hart'.

(Electronic signatures are acceptable; see CMEP)

Name (Print): Deborah L. Hart

Title: Vice President

Date: January 26, 2009



**Section G: Comments and Additional Information**

You may use this area to provide comments or any additional relevant information not previously addressed in this form.

[Provide your response here; additional detailed information may be provided as an attachment as necessary]

**Submittal Instructions:**

Please convert the completed and signed document to a text-searchable Adobe .pdf document using the following naming convention:

[(MP Entity Name (STD-XXX) MM-DD-YY.pdf)]

Email the pdf file to [serccomply@serc1.org](mailto:serccomply@serc1.org).

Please direct any questions regarding completion of this form to:

Ken Keels  
Manager, Compliance Enforcement  
SERC Reliability Corporation  
704-357-7372  
[kkeels@serc1.org](mailto:kkeels@serc1.org)

## Certification of a Completed Mitigation Plan

### SERC Reliability Corporation Violation Mitigation Plan Closure Form

Name of Registered Entity submitting certification: South Eastern Generating Corporation ("SEGCO")

Date of Certification: January 26, 2009

Name of Standard and the Requirement(s) of mitigated violation(s): PRC-005-1

SERC Tracking Number (contact SERC if not known): 08-110 R1

NERC Violation ID Number (if assigned):

**Date of completion of the Mitigation Plan:** October 17, 2008

Summary of all actions described in Part D of the relevant mitigation plan: On October 17, 2008, SEGCO amended its Preventative Maintenance Plan to include intervals, basis and summary of procedures for certain classes of equipment that had been omitted in the previous version.

Description of the information provided to SERC for their evaluation: Current copy SEGCO's Preventative Maintenance Plan

I certify that the mitigation plan for the above-named violation has been completed on the date shown above. In doing so, I certify that all required mitigation plan actions described in Part D of the relevant mitigation plan have been completed, compliance has been restored, the above-named entity is currently compliant with all of the requirements of the referenced standard, and that all information submitted information is complete and correct to the best of my knowledge.

Name: Deborah L. Hart

Title: Vice President

Entity: SOUTH EASTERN GENERATING CORPORATION

Email: Deborah.Hart@morganstanley.com

Phone: 914-225-1430

Designated Signature Deborah L. Hart Date 1-26-09

# Appendix A-3



SERC Reliability Corporation  
2815 Coliseum Centre Drive | Suite 500  
Charlotte, NC 28217  
704.357.7372 | Fax 704.357.7914 | www.serc1.org

## **Statement of SERC Reliability Corporation Compliance Staff Regarding Completion of Mitigation Plan**

Registered Entity: South Eastern Generating Company  
SERC Tracking ID: 08-110 (superseding 08-082)  
NERC Violation No: SERC200800194 (superseding SERC200800156)  
NERC Mitigation Plan ID: MIT-07-1437 (superseding MIT-07-0965)  
Standard: PRC-005-1  
Requirement(s): R1

### **Violation Summary:**

Entity is in violation of PRC-005-1, R1 because it failed to have documented bases for its maintenance intervals for maintenance and testing of protective relays of Protection Systems affecting the reliability of the Bulk Power System; and did not include intervals, documented bases for its intervals, or a summary of its maintenance and testing procedures for associated communication systems, voltage and current sensing devices, and DC control circuitry in its maintenance and testing program.

### **Mitigation Plan Summary:**

South Eastern Generating Company's (SEGCO) Mitigation Plan to address the referenced violation was originally submitted on July 16, 2008 but was superseded by the Mitigation Plan submitted on January 26, 2009. The superseding plan was accepted by SERC on February 19, 2009 and approved by NERC on March 9, 2009. The original Mitigation Plan is identified as MIT-07-0965 and the superseding plan is identified as MIT-07-1437. The superseding plan was submitted as non-public information to FERC on March 10, 2009 in accordance with FERC orders.

SEGCO amended its Preventative Maintenance Plan to include intervals, basis and summary of procedures for certain classes of equipment that had been omitted in the previous version.

### **SERC's Monitoring of Registered Entity's Mitigation Plan Progress:**

SERC Reliability Corporation Compliance Staff ("SERC Staff") monitors the Registered Entity's progress towards completion of its Mitigation Plans in accordance with Section 6.0 of the uniform Compliance Monitoring and Enforcement Program, ("CMEP"). Pursuant to the CMEP, Registered Entities are required to establish implementation milestones no more than three (3) months apart. SERC Staff solicits quarterly reports from all Registered Entities with open mitigation plans to monitor the progress on completion of milestones. SERC Staff also produces and reviews daily Mitigation Plan status reports highlighting Mitigation Plans that are nearing the scheduled completion

## Appendix A-3



SERC Reliability Corporation  
2815 Coliseum Centre Drive | Suite 500  
Charlotte, NC 28217  
704.357.7372 | Fax 704.357.7914 | [www.serc1.org](http://www.serc1.org)

date. If the Registered Entity fails to complete its Mitigation Plan according to schedule, appropriate additional enforcement action is initiated to assure compliance is attained.

In this case, SEGCO submitted the Mitigation Plan as complete and no additional monitoring of progress was necessary.

### **Mitigation Plan Completion Review Process:**

SEGCO certified on January 26, 2009 that the subject Mitigation Plan was completed on October 17, 2008. A SERC compliance staff member reviewed the evidence submitted in a manner similar to a compliance audit. That action was followed by another compliance staff member's peer review of the initial conclusion.

### **Evidence Reviewed:**

08-110 SEGCO (PRC-005) Test Proc 01-26-09.pdf -*SEGCO's Preventative Maintenance Schedule that includes intervals, the bases for the intervals, and summary procedures for Protection System maintenance and testing for all applicable elements of the Protection Systems.*

### **Conclusion:**

On February 20, 2009 SERC Reliability Corporation Compliance Staff ("SERC Staff") completed its review of the evidence submitted by SEGCO in support of its Certification of Completion of the subject Mitigation Plan. Based on its review of the evidence submitted, SERC Staff verifies that, in its professional judgment, all required actions in the Mitigation Plan have been completed and SEGCO is in compliance with the subject Reliability Standard Requirements.

This Statement, along with the subject Mitigation Plan, may become part of a public record upon final disposition of the possible violation.

### **Respectfully Submitted,**

Mark Ladrow  
Sam Stryker



## Mitigation Plan Submittal Form

Date this Mitigation Plan is being submitted: 2/20/2009

If this Mitigation Plan has already been completed:

- Check this box  and
- Provide the Date of Completion of the Mitigation Plan: 11/5/08

### Section A: Compliance Notices<sup>1</sup>

- Section 6.2 of the CMEP<sup>2</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 2.0.
  - (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.

<sup>1</sup> This document will become part of the public record to be included in the Notice of Penalty filing to be submitted to the Federal Energy Regulatory Commission (Commission) upon determination that a confirmed violation has occurred or in the event a settlement agreement is reached between the Registered Entity and the Regional Entity. The entire document will be submitted as part of the public record, unless the Registered Entity marks specific information as confidential Critical Energy Infrastructure Information or Privileged Information in accordance with the NERC Rules of Procedure Section 1500 and the Commission's regulations, rules and orders. The Registered Entity must provide adequate justification supporting designation of information that is submitted to the Commission as Confidential Information. Until such time as this document is submitted to the Commission, it will remain confidential within NERC and the Regional Entity compliance organization pursuant to Section 1500 of the Rules of Procedure.

<sup>2</sup> "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.

## Appendix A-4



- (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) 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 shall be used to provide a required Mitigation Plan for review and approval by SERC and NERC.
  - The Mitigation Plan shall be submitted to SERC 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 violations of one Reliability Standard. A separate mitigation plan is required to address violations with respect to each additional Reliability Standard, as applicable.
  - If the Mitigation Plan is approved by SERC and 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.
  - SERC 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.

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

#### B.1 Identify your organization:

Company Name: South Eastern Generating Corporation

Company Address: 2000 Westchester Avenue, Purchase, NY 10577

NERC Compliance Registry ID *[if known]*: NCR01314

#### B.2 Identify the individual in your organization who will serve as the Contact to SERC regarding this Mitigation Plan. This person shall be technically knowledgeable regarding this Mitigation Plan and authorized to respond to SERC regarding this Mitigation Plan.



# Appendix A-4



Name: Robert J. Kalachik  
Title: Vice President  
Email: Robert.Kalachik@morganstanley.com  
Phone: 914-225-5788



**Section C: Identity of Reliability Standard Violations Associated with this Mitigation Plan**

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

C.1 Standard: PRC-005-1  
*[Identify by Standard Acronym (e.g. FAC-001-1)]*

C.2 Requirement(s) violated and violation dates:  
*[Enter information in the following Table]*

NERC Violation ID # [if known]	SERC Violation ID # [if known]	Requirement Violated (e.g. R3.2)	Violation Date <sup>(*)</sup>
SERCYYYYnnnnn	2008-111	R2	09/16/2008

(\*) Note: The Violation Date shall be: (i) the date that the violation occurred; (ii) the date that the violation was self-reported; or (iii) the date that the violation has been deemed to have occurred on by SERC. Questions regarding the date to use should be directed to SERC.

C.3 Identify the cause of the violation(s) identified above:

At the time of the SERC audit, SEGCO did not maintain on site copies of the document outlining the scope of testing conducted by its vendor, Sub Station Services Inc. ("Sub Station"). Sub Station was unable to send these documents to SEGCO during the audit period because their offices were closed due to due to Hurricane Ike in Texas.

*[Provide your response here; additional detailed information may be provided as an attachment as necessary]*

C.4 **[Optional]** Provide any relevant additional information regarding the violations associated with this Mitigation Plan:

Once received, SEGCO promptly provided the documentation from Sub Station to SERC, which showed that testing procedures and

## Appendix A-4



documentation was inclusive of all the devices that should be maintained and/or tested under requirement PRC-005-1.

[Provide your response here; additional detailed information may be provided as an attachment as necessary]



**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 violations identified above in Part C.2 of this form:

SEGCO obtained electronic copies of all testing documents and evidence from the vendor on November 5, 2008 and provided them to SERC.

[Provide your response here; additional detailed information may be provided as an attachment as necessary]

**Check this box  and proceed to Section E of this form if this Mitigation Plan, as set forth in Part D.1, has already been completed; otherwise respond to Part D.2, D.3 and, optionally, Part D.4, below.**

**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:

D.3 Enter Milestone Activities, with completion dates, that your organization is proposing for this Mitigation Plan:

Milestone Activity	Proposed Completion Date* (shall not be more than 3 months apart)

(\* 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.

[Note: Provide your response here; additional detailed information may be provided as an attachment as necessary]



**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:

[Provide your response here; additional detailed information may be provided as an attachment as necessary]

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

***Check this box  and proceed and respond to Part E.2 and E.3, below, if this Mitigation Plan, as set forth in Part D.1, has already been completed.***

**Abatement of Interim BPS Reliability Risk**

E.1 While your organization is implementing the Mitigation Plan proposed in Part 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:

[Provide your response here; additional detailed information may be provided as an attachment as necessary]

**Prevention of Future BPS Reliability Risk**

E.2 Describe how successful completion of the Mitigation Plan as laid out in Part 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:

As the testing and evidentiary documentation provided to SEGCO by the vendor has been saved on a secure hard drive, it can be provided to SERC upon request. Future documentation of testing will be archived in the same fashion. Completion of the mitigation plan has addressed the possible violation.

## Appendix A-4



SEGCO intends to remain in compliance with this standard by retaining all copies of scope of work orders provided to vendors, the resulting testing plans and the final reports resulting from the testing of the facility.

[Provide your response here; additional detailed information may be provided as an attachment as necessary]

- E.3 Your organization may be taking or planning other action, beyond that listed in the Mitigation Plan, as proposed in Part D.1, to prevent or minimize the probability of incurring further violations of the same or similar standards requirements listed in Part C.2, or of other reliability standards. If so, identify and describe any such action, including milestones and completion dates:

[Provide your response here; additional detailed information may be provided as an attachment as necessary]

**Continued on Next Page**



**Section F: Authorization**

An authorized individual must sign and date this Mitigation Plan Submittal Form. By doing so, this individual, on behalf of your organization:

- a) Submits the Mitigation Plan, as laid out in Section D of this form, to SERC for acceptance by SERC 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 of South Eastern Generating Corporation.
  - 2. I am qualified to sign this Mitigation Plan on behalf of South Eastern Generating Corporation.
  - 3. I have read and understand South Eastern Generating Corporation 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. South Eastern Generating Corporation agrees to be bound by, and comply with, the Mitigation Plan, including the timetable completion date, as approved by SERC and approved by NERC.

**Authorized Individual Signature**

A handwritten signature in blue ink that reads "Deborah L. Hart". The signature is written over a horizontal line.

(Electronic signatures are acceptable; see CMEP)

Name (Print): Deborah L. Hart

Title: Vice President

Date: February 20, 2009



**Section G: Comments and Additional Information**

You may use this area to provide comments or any additional relevant information not previously addressed in this form.

[Provide your response here; additional detailed information may be provided as an attachment as necessary]

**Submittal Instructions:**

Please convert the completed and signed document to a text-searchable Adobe .pdf document using the following naming convention:

[(MP Entity Name (STD-XXX) MM-DD-YY).pdf]

Email the pdf file to [serccomply@serc1.org](mailto:serccomply@serc1.org).

Please direct any questions regarding completion of this form to:

Ken Keels  
Manager, Compliance Enforcement  
SERC Reliability Corporation  
704-357-7372  
[kkeels@serc1.org](mailto:kkeels@serc1.org)



Appendix A-5  
South Eastern Generating Corporation  
2000 Westchester Avenue  
Purchase, NY 10577

SERC Tracking Number 08-111

**Certification of a Completed Mitigation Plan**

**SERC Reliability Corporation  
Violation Mitigation Plan Closure Form**

Name of Registered Entity submitting certification: South Eastern Generating Corporation ("SEGCO")

Date of Certification: February 20, 2009

Name of Standard and the Requirement(s) of mitigated violation(s): PRC-005-1/R2

SERC Tracking Number (contact SERC if not known): 08-111

NERC Violation ID Number (if assigned):

**Date of completion of the Mitigation Plan:** November 5, 2008

Summary of all actions described in Part D of the relevant mitigation plan: SEGCO obtained electronic copies of all testing documents and evidence from the vendor on October 29, 2008 and provided them to SERC

Description of the information provided to SERC for their evaluation: Once received, SEGCO promptly provided the documentation from Sub Station to SERC, which showed that testing procedures and documentation was inclusive of all the devices that should be maintained and/or tested under requirement PRC-005-1.

I certify that the mitigation plan for the above-named violation has been completed on the date shown above. In doing so, I certify that all required mitigation plan actions described in Part D of the relevant mitigation plan have been completed, compliance has been restored, the above-named entity is currently compliant with all of the requirements of the referenced standard, and that all information submitted information is complete and correct to the best of my knowledge.

Name: Deborah L. Hart

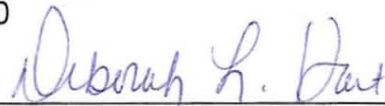
Title: Vice President

Entity: SOUTH EASTERN GENERATING CORPORATION

Email: Deborah.Hart@morganstanley.com

Phone: 914-225-1430

Designated Signature



Date

2/20/2009

[NOTE – Closure Form should be signed by same individual that signed Mitigation Plan]

(Form Revised August 13, 2008)

# Appendix A-6



SERC Reliability Corporation  
2815 Coliseum Centre Drive | Suite 500  
Charlotte, NC 28217  
704.357.7372 | Fax 704.357.7914 | www.serc1.org

## **Statement of SERC Reliability Corporation Compliance Staff Regarding Completion of Mitigation Plan**

Registered Entity: South Eastern Generating Company  
SERC Tracking ID: 08-111  
NERC Violation No: SERC200800195  
NERC Mitigation Plan ID: MIT-07-1519  
Standard: PRC-005-1  
Requirement(s): R2

### **Violation Summary:**

At the conclusion of the duly-scheduled compliance audit on September 16, 2008, after prior notice from SERC of the requirement to produce evidence of compliance issued on June 25, 2008, Entity failed to provide evidence that Protection System maintenance was being performed as required by PRC-005-1, R2. Entity subsequently provided, on November 5, 2008, evidence sufficient to support its compliance with PRC-005-1, R2. If Entity had provided the same evidence on September 16, 2008 as was provided on November 5, 2008, Entity would likely have been found in compliance with PRC-005-1, R2. The duration of the violation extends from the final day of the audit, September 16, 2008, through November 5, 2008, when the evidence supporting compliance was provided to SERC Staff. This violation is considered to be a documentation-only violation inasmuch as Entity ultimately provided evidence that the required actions were being performed as required by the standard.

### **Mitigation Plan Summary:**

South Eastern Generating Company's (SEGCO) Mitigation Plan to address the referenced violation was submitted on February 20, 2009 and was accepted by SERC on March 19, 2009 and approved by NERC on March 30, 2009. The Mitigation Plan is identified as MIT-07-1519 and was submitted as non-public information to FERC on April 1, 2009 in accordance with FERC orders.

SEGCO Mitigation Plan focused on preventing recurrence since it ultimately was able to provide evidence it was in compliance at the time of the audit but was unable to produce that evidence at the audit.

### **SERC's Monitoring of Registered Entity's Mitigation Plan Progress:**

SERC Reliability Corporation Compliance Staff ("SERC Staff") monitors the Registered Entity's progress towards completion of its Mitigation Plans in accordance with Section 6.0 of the uniform Compliance Monitoring and Enforcement Program, ("CMEP"). Pursuant to the CMEP, Registered Entities are required to establish implementation milestones no more than three (3) months apart. SERC Staff solicits quarterly reports

# Appendix A-6



SERC Reliability Corporation  
2815 Coliseum Centre Drive | Suite 500  
Charlotte, NC 28217  
704.357.7372 | Fax 704.357.7914 | www.serc1.org

from all Registered Entities with open mitigation plans to monitor the progress on completion of milestones. SERC Staff also produces and reviews daily Mitigation Plan status reports highlighting Mitigation Plans that are nearing the scheduled completion date. If the Registered Entity fails to complete its Mitigation Plan according to schedule, appropriate additional enforcement action is initiated to assure compliance is attained.

In this case, SEGCO submitted the Mitigation Plan as complete and no additional monitoring of progress was necessary.

### **Mitigation Plan Completion Review Process:**

SEGCO certified on February 20, 2009 that the subject Mitigation Plan was completed on November 5, 2008. A SERC compliance staff member reviewed the evidence submitted in a manner similar to a compliance audit. That action was followed by another compliance staff member's peer review of the initial conclusion.

### **Evidence Reviewed:**

SEGCO submitted and SERC Staff reviewed the following evidence in support of its certification that it was in compliance at the time of the audit:

08-111 SEGCO TEST SCOPE.pdf – *showing the actual work scope completed on the last outage in April 2008.*

### **Conclusion:**

On February 20, 2009 SERC Reliability Corporation Compliance Staff ("SERC Staff") completed its review of the evidence submitted by SEGCO in support of its Certification of Completion of the subject Mitigation Plan. Based on its review of the evidence submitted, SERC Staff verifies that, in its professional judgment, all required actions in the Mitigation Plan have been completed and SEGCO is in compliance with the subject Reliability Standard Requirements.

This Statement, along with the subject Mitigation Plan, may become part of a public record upon final disposition of the possible violation.

### **Respectfully Submitted,**

Mark Ladrow  
James Harrell



## Mitigation Plan Submittal Form

Date this Mitigation Plan is being submitted: 1/26/2009

If this Mitigation Plan has already been completed:

- Check this box  and
- Provide the Date of Completion of the Mitigation Plan: 1/23/09

### Section A: Compliance Notices<sup>1</sup>

- Section 6.2 of the CMEP<sup>2</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 2.0.
  - (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.

<sup>1</sup> This document will become part of the public record to be included in the Notice of Penalty filing to be submitted to the Federal Energy Regulatory Commission (Commission) upon determination that a confirmed violation has occurred or in the event a settlement agreement is reached between the Registered Entity and the Regional Entity. The entire document will be submitted as part of the public record, unless the Registered Entity marks specific information as confidential Critical Energy Infrastructure Information or Privileged Information in accordance with the NERC Rules of Procedure Section 1500 and the Commission's regulations, rules and orders. The Registered Entity must provide adequate justification supporting designation of information that is submitted to the Commission as Confidential Information. Until such time as this document is submitted to the Commission, it will remain confidential within NERC and the Regional Entity compliance organization pursuant to Section 1500 of the Rules of Procedure.

<sup>2</sup> "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.

## Appendix A-7



- (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) 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 shall be used to provide a required Mitigation Plan for review and approval by SERC and NERC.
  - The Mitigation Plan shall be submitted to SERC 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 violations of one Reliability Standard. A separate mitigation plan is required to address violations with respect to each additional Reliability Standard, as applicable.
  - If the Mitigation Plan is approved by SERC and 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.
  - SERC 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.

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

B.1 Identify your organization:

Company Name: South Eastern Generating Corporation ("SEGCO")

Company Address: 2000 Westchester Avenue, Purchase, NY 10577

NERC Compliance Registry ID *[if known]*: NCR01314

B.2 Identify the individual in your organization who will serve as the Contact to SERC regarding this Mitigation Plan. This person shall be technically knowledgeable regarding this Mitigation Plan and authorized to respond to SERC regarding this Mitigation Plan.

Appendix A-7



Name: Robert Kalachik  
Title: Vice President  
Email: robert.kalachik@morganstanley.com  
Phone: 914-225-5788

# Appendix A-7



**Section C: Identity of Reliability Standard Violations Associated with this Mitigation Plan**

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

C.1 Standard: FAC-008-1  
*[Identify by Standard Acronym (e.g. FAC-001-1)]*

C.2 Requirement(s) violated and violation dates:  
*[Enter information in the following Table]*

NERC Violation ID # [if known]	SERC Violation ID # [if known ]	Requirement Violated (e.g. R3.2)	Violation Date <sup>(*)</sup>
SERCYYYYnnnnn	YYYY-nnn	R.1.1	07/28/08

(\*) Note: The Violation Date shall be: (i) the date that the violation occurred; (ii) the date that the violation was self-reported; or (iii) the date that the violation has been deemed to have occurred on by SERC. Questions regarding the date to use should be directed to SERC.

C.3 Identify the cause of the violation(s) identified above:  
  
 SEGCO's rating methodology did not conform to audit standards for FAC-008-1 R1.1 because it did not contain the specific statement that facility ratings shall be equal to the most limiting applicable Equipment Rating of the individual equipment that comprises the facility.  
*[Provide your response here; additional detailed information may be provided as an attachment as necessary]*

C.4 **[Optional]** Provide any relevant additional information regarding the violations associated with this Mitigation Plan:  
  
*[Provide your response here; additional detailed information may be provided as an attachment as necessary]*



**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 violations identified above in Part C.2 of this form:

On November 5, 2008, SEGCO amended its Facility Ratings Methodology to address the then draft findings of SERC audit staff by including the required explicit limiting equipment statement and modifying the form of documentation. The document was amended again on January 23, 2009 in response to additional guidance from enforcement staff.

[Provide your response here; additional detailed information may be provided as an attachment as necessary]

**Check this box  and proceed to Section E of this form if this Mitigation Plan, as set forth in Part D.1, has already been completed; otherwise respond to Part D.2, D.3 and, optionally, Part D.4, below.**

**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:

D.3 Enter Milestone Activities, with completion dates, that your organization is proposing for this Mitigation Plan:

Milestone Activity	Proposed Completion Date* (shall not be more than 3 months apart)



## Appendix A-7



(\* 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.

[Note: Provide your response here; additional detailed information may be provided as an attachment as necessary]



**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:

[Provide your response here; additional detailed information may be provided as an attachment as necessary]

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

***Check this box  and proceed and respond to Part E.2 and E.3, below, if this Mitigation Plan, as set forth in Part D.1, has already been completed.***

**Abatement of Interim BPS Reliability Risk**

E.1 While your organization is implementing the Mitigation Plan proposed in Part 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:

[Provide your response here; additional detailed information may be provided as an attachment as necessary]

**Prevention of Future BPS Reliability Risk**

E.2 Describe how successful completion of the Mitigation Plan as laid out in Part 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:

Completion of the mitigation plan addressed the possible violation as well as concerns identified by the SERC audit team. The amendments to the ratings methodology formalized the practices which has been in place, unchanged, since plant startup and address all issues raised by the audit team, including

## Appendix A-7



those that qualify as concerns. Given the infrequency of change to the configuration and operation of the plant and SEGCO's enhanced understanding of the reliability standards, it is unlikely that future violations will occur.  
[Provide your response here; additional detailed information may be provided as an attachment as necessary]

- E.3 Your organization may be taking or planning other action, beyond that listed in the Mitigation Plan, as proposed in Part D.1, to prevent or minimize the probability of incurring further violations of the same or similar standards requirements listed in Part C.2, or of other reliability standards. If so, identify and describe any such action, including milestones and completion dates:

[Provide your response here; additional detailed information may be provided as an attachment as necessary]

Continued on Next Page



**Section F: Authorization**

An authorized individual must sign and date this Mitigation Plan Submittal Form. By doing so, this individual, on behalf of your organization:

- a) Submits the Mitigation Plan, as laid out in Section D of this form, to SERC for acceptance by SERC 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 of South Eastern Generating Corporation.
  - 2. I am qualified to sign this Mitigation Plan on behalf of South Eastern Generating Corporation.
  - 3. I have read and understand South Eastern Generating Corporation 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. South Eastern Generating Corporation agrees to be bound by, and comply with, the Mitigation Plan, including the timetable completion date, as approved by SERC and approved by NERC.

**Authorized Individual Signature**

A handwritten signature in blue ink that reads 'Deborah L. Hart' is written over a horizontal line.

(Electronic signatures are acceptable; see CMEP)

Name (Print): Deborah L. Hart  
Title: Vice President  
Date: January 26, 2009



**Section G: Comments and Additional Information**

You may use this area to provide comments or any additional relevant information not previously addressed in this form.

[Provide your response here; additional detailed information may be provided as an attachment as necessary]

**Submittal Instructions:**

Please convert the completed and signed document to a text-searchable Adobe .pdf document using the following naming convention:

[(MP Entity Name (STD-XXX) MM-DD-YY.pdf)]

Email the pdf file to [serccomply@serc1.org](mailto:serccomply@serc1.org).

Please direct any questions regarding completion of this form to:

Ken Keels  
Manager, Compliance Enforcement  
SERC Reliability Corporation  
704-357-7372  
[kkeels@serc1.org](mailto:kkeels@serc1.org)

## Appendix A-8

South Eastern Generating Corporation

2000 Westchester Avenue

Purchase, NY 10577

## Certification of a Completed Mitigation Plan

SERC Reliability Corporation  
Violation Mitigation Plan Closure Form

Name of Registered Entity submitting certification: South Eastern Generating Corporation ("SEGCO")

Date of Certification: January 26, 2009

Name of Standard and the Requirement(s) of mitigated violation(s): FAC-008-1

SERC Tracking Number (contact SERC if not known): 08-112 R1

NERC Violation ID Number (if assigned):

**Date of completion of the Mitigation Plan:** January 23, 2009

Summary of all actions described in Part D of the relevant mitigation plan: On November 5, 2008, SEGCO amended its Facility Ratings Methodology to address the then draft findings of SERC audit staff by including the required explicit limiting equipment statement and modifying the form of documentation. The document was amended again on January 23, 2009 in response to additional guidance from enforcement staff.

Description of the information provided to SERC for their evaluation:

FACILITY RATINGS METHODOLOGY - SEGCO version 2.doc dated and approved 11/5/08

FACILITY RATINGS METHODOLOGY - SEGCO version 3.doc dated and approved 1/23/09

I certify that the mitigation plan for the above-named violation has been completed on the date shown above. In doing so, I certify that all required mitigation plan actions described in Part D of the relevant mitigation plan have been completed, compliance has been restored, the above-named entity is currently compliant with all of the requirements of the referenced standard, and that all information submitted information is complete and correct to the best of my knowledge.

Name: Deborah L. Hart

Title: Vice President

Entity: SOUTH EASTERN GENERATING CORPORATION

Email: Deborah.Hart@morganstanley.com

Phone: 914-225-1430

Designated Signature Deborah L. Hart Date 1/26/09

# Appendix A-9



SERC Reliability Corporation  
2815 Coliseum Centre Drive | Suite 500  
Charlotte, NC 28217  
704.357.7372 | Fax 704.357.7914 | [www.serc1.org](http://www.serc1.org)

## **Statement of SERC Reliability Corporation Compliance Staff Regarding Completion of Mitigation Plan**

Registered Entity: Morgan Stanley- Bainbridge (SEGCO)  
SERC Tracking ID: 08-112  
NERC Violation No: SERC200800196  
NERC Mitigation Plan ID: MIT-07-1438  
Standard: FAC-008-1  
Requirement(s): R1

### **Violation Summary:**

SEGCO is in violation of FAC-008-1, R1 because its current Ratings Methodology documentation does not include the “most limiting equipment” statement required in R1.1.

### **Mitigation Plan Summary:**

SEGCO’s Mitigation Plan to address the referenced violation was submitted on January 26, 2009 and was accepted by SERC on February 19, 2009 and approved by NERC on March 9, 2009. The Mitigation Plan is identified as MIT-07-1438 and was submitted as non-public information to FERC on March 10, 2009 in accordance with FERC orders.

SEGCO modified its current Facility Rating Methodology so that it reflected that the most limiting element of the facility would limit the rating of the facility.

### **SERC’s Monitoring of Registered Entity’s Mitigation Plan Progress:**

SERC Reliability Corporation Compliance Staff (“SERC Staff”) monitors the Registered Entity’s progress towards completion of its Mitigation Plans in accordance with Section 6.0 of the uniform Compliance Monitoring and Enforcement Program, (“CMEP”). Pursuant to the CMEP, Registered Entities are required to establish implementation milestones no more than three (3) months apart. SERC Staff solicits quarterly reports from all Registered Entities with open mitigation plans to monitor the progress on completion of milestones. SERC Staff also produces and reviews daily Mitigation Plan status reports highlighting Mitigation Plans that are nearing the scheduled completion date. If the Registered Entity fails to complete its Mitigation Plan according to schedule, appropriate additional enforcement action is initiated to assure compliance is attained.



In this case, SEGCO submitted the Mitigation Plan as complete and no additional monitoring of progress was necessary.

**Mitigation Plan Completion Review Process:**

SEGCO certified on January 26, 2009 that the subject Mitigation Plan was completed on January 23, 2009. A SERC compliance staff member reviewed the evidence submitted in a manner similar to a compliance audit. That action was followed by another compliance staff member's peer review of the initial conclusion.

**Evidence Reviewed:**

SEGCO submitted and SERC Staff reviewed a copy of SEGCO's Facility Ratings Methodology V3, dated January 23, 2009 in support of its certification that its Mitigation Plan was completed in accordance with its terms. *SEGCO's Facility Ratings Methodology documents SEGCO's procedure for rating its facility, including the required most limiting element statement.*

**Conclusion:**

On March 5, 2009 SERC Reliability Corporation Compliance Staff ("SERC Staff") completed its review of the evidence submitted by SEGCO in support of its Certification of Completion of the subject Mitigation Plan. Based on its review of the evidence submitted, SERC Staff verifies that, in its professional judgment, all required actions in the Mitigation Plan have been completed and SEGCO is in compliance with the subject Reliability Standard Requirements.

This Statement, along with the subject Mitigation Plan, may become part of a public record upon final disposition of the possible violation.

**Respectfully Submitted,**

Mark Ladrow  
James Harrell



**Attachment d**

**Notice of Filing**

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

South Eastern Generating Corporation

Docket

No. NP10-\_\_\_\_-000

NOTICE OF FILING  
December 30, 2009

Take notice that on December 30, 2009, the North American Electric Reliability Corporation (NERC) filed a Notice of Penalty regarding South Eastern Generating Corporation 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](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: [BLANK]

Kimberly D. Bose,  
Secretary