



NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

February 1, 2010

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

**Re: NERC Notice of Penalty regarding Calpine Energy Services  
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 Calpine Energy Services (CES), NERC Registry ID NCR01189,<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>

As a result of a Compliance Audit for CES and its parent company, Calpine Corporation, NERC Registry ID NCR00006, conducted between June 9, 2008 and June 12, 2008 (Audit), SERC Reliability Corporation (SERC) identified potential violations for both entities. The identified alleged violations for Calpine Corporation are addressed in NERC NOC-260, which is being concurrently filed with this NOC, and the alleged violations for CES are addressed below.

SERC identified potential CES violations of: (1) TOP-002-2 Requirement (R) 3 for CES's failure to provide evidence that it was coordinating current-day, next-day and seasonal operations with its Host Balancing Authority; (2) TOP-003-0 R1 for CES's failure to provide evidence that it was providing daily outage information to its Transmission Operator; (3) TOP-005-1 R4 for CES's failure to provide evidence that it was providing information to its Host

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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 Calpine Energy Services was included on the NERC Compliance Registry as a Generator Operator (GOP) and Purchasing-Selling Entity (PSE) on May 31, 2007. As a GOP and PSE, Calpine Energy Services was subject to the requirements of NERC Reliability Standards TOP-002-2, TOP-003-0, TOP-005-1 and IRO-004-1. NERC registry number NCR01189 is registered only in the SERC Region, although CES is registered in additional Regions under other registry numbers.

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

Balancing Authority and Transmission Operator for operational reliability assessments and to coordinate reliable operations; and (4) IRO-004-1 R4 for CES's failure to produce evidence that it was providing information to its Reliability Coordinator required for system studies. This Notice of Penalty is being filed with the Commission because, based on information from SERC, SERC and CES have entered into a 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 TOP-002-2 R3, TOP-003-0 R1, TOP-005-1 R4 and IRO-004-1 R4. According to the Settlement Agreement, CES neither admits nor denies the alleged violations of TOP-002-2 R3, TOP-003-0 R1, TOP-005-1 R4 and IRO-004-1 R4, but has agreed to the proposed penalty of twenty thousand dollars (\$20,000) to be assessed to CES, in addition to other remedies and actions to mitigate the instant alleged violations and facilitate future compliance under the terms and conditions of the Settlement Agreement. Accordingly, the alleged violations identified as NERC Violation Tracking Identification Numbers SERC200800140, SERC200800139, SERC200800136 and SERC200800141, respectively, 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 July 7, 2009 by and between SERC and CES, included as Attachment b. 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	Calpine Energy Services	NOC-245	SERC200800140	TOP-002-2	3	Medium	20,000
SERC	Calpine Energy Services	NOC-245	SERC200800139	TOP-003-0 <sup>4</sup>	1	Medium <sup>5</sup>	
SERC	Calpine Energy Services	NOC-245	SERC200800136	TOP-005-1 <sup>6</sup>	4	Medium	
SERC	Calpine Energy Services	NOC-245	SERC200800141	IRO-004-1	4	High	

<sup>4</sup> The Mitigation Plan in various places incorrectly refers to TOP-003-1, instead of TOP-003-0.

<sup>5</sup> When NERC filed VRFs for TOP-003-0, NERC originally assigned a "Medium" VRF to TOP-003-0 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 "<blank>" VRF for TOP-003-0 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 "<blank>" VRF has been in effect since August 6, 2007.

<sup>6</sup> TOP-005-1.1, the current standard, became effective May 13, 2009, therefore the applicable NERC Reliability Standard during the alleged violation duration is TOP-005-1.

TOP-002-2 R3, TOP-003-0 R1, TOP-005-1 R4

The purpose of Reliability Standard TOP-002-2 is to ensure current operations plans and procedures are essential to being prepared for reliable operations, including response for unplanned events.

TOP-002-2 R3 requires each Generator Operator, such as CES, and Load Serving Entity to coordinate (where confidentiality agreements allow) its current-day, next-day, and seasonal operations with its Host Balancing Authority and Transmission Service Provider. Each Balancing Authority and Transmission Service Provider shall coordinate its current-day, next-day, and seasonal operations with its Transmission Operator. TOP-002-2 R3 has a “Medium” Violation Risk Factor (VRF).

The purpose of Reliability Standard TOP-003-0 is to ensure that scheduled generator and transmission outages that may affect the reliability of interconnected operations are planned and coordinated among Balancing Authorities, Transmission Operators, and Reliability Coordinators.

TOP-003-0 R1 requires a Generator Operator, such as CES, and Transmission Operator to provide planned outage information. R1.1 states that each Generator Operator shall provide outage information daily to its Transmission Operator for scheduled generator outages planned for the next day (any foreseen outage of a generator greater than 50 MW); the Transmission Operator should establish the outage reporting requirements and R1.3 further requires that such information be provided by 1200 Central Standard Time for the Eastern Interconnection and 1200 Pacific Standard Time for the Western Connection. TOP-003-0 R1 has a “Medium” VRF.

The purpose of Reliability Standard TOP-005-1 is to ensure reliability entities have the operating data needed to monitor system conditions within their areas.

TOP-005-1 R4 requires a Purchasing-Selling Entity, such as CES, to provide its Host Balancing Authorities and Transmission Operators with information, as requested, to enable them to conduct operational reliability assessments and coordinate reliable operations. TOP-005-1 R4 has a “Medium” VRF.

During the Audit, CES was unable to produce evidence to SERC that it was: (a) coordinating its current-day, next-day and seasonal operations with its Host Balancing Authority; (b) providing outage information daily to its Transmission Operator; and (c) providing information to its Host Balancing Authority and Transmission Operator for operational reliability assessments and to coordinate reliable operations. On June 25, 2008, CES provided SERC with documentation evidence, in the form of electronic tags from its OATI tagging system, showing that it had been providing the information required by TOP-002-2 R3, TOP-003-0 R1 and TOP-005-1 R4 to its Balancing Authority and Transmission Service Provider.

SERC Staff concluded that the facts and evidence supported a finding that CES violated TOP-002-2 R3, because at the time of the Audit, CES was unable to produce evidence to show that it

was coordinating its current-day, next-day and seasonal operations with its Host Balancing Authority and Transmission Service Provider.

SERC Staff concluded that the facts and evidence supported a finding that CES violated TOP-003-0 R1, because at the time of the Audit, CES was unable to produce evidence to show that it was providing outage information daily to its Transmission Operator.

SERC Staff concluded that the facts and evidence supported a finding that CES violated TOP-005-1 R4, because at the time of the Audit, CES was unable to produce evidence to show that it was providing information to its Host Balancing Authority and Transmission Operator for operational reliability assessments and to coordinate reliable operations.

#### IRO-004-1 R4

The purpose of Reliability Standard IRO-004-1 is to require each Reliability Coordinator to conduct next-day reliability analyses for its Reliability Coordinator Area to ensure the Bulk Power System can be operated reliably in anticipated normal and Contingency conditions. System studies must be conducted to highlight potential interface and other operating limits, including overloaded transmission lines and transformers, voltage and stability limits, *etc.* Plans must be developed to alleviate System Operating Limit (SOL) and Interconnection Reliability Operating Limit (IROL) violations.

IRO-004-1 R4 requires each Generator Owner, such as CES, Transmission Operator, Balancing Authority, Transmission Owner, Generator Operator and Load-Serving Entity in the Reliability Coordinator Area to provide information required for system studies, such as critical facility status, Load, generation, operating reserve projections, and known Interchange Transactions. This information shall be available by 1200 Central Standard Time for the Eastern Interconnection and 1200 Pacific Standard Time for the Western Interconnection. IRO-004-1 R4 has a “High” VRF.

During the Audit, CES was unable to produce evidence to SERC that it was providing its Reliability Coordinator with information required for system studies. After the completion of the Audit, CES provided SERC with evidence, in the form of electronic tags from its OATI tagging system, showing that it had been providing the information required by IRO-004-1 R4 to its Balancing Authority and Transmission Service Provider. SERC Staff subsequently requested, and CES provided, additional screenshots of the electronic tags for the months October 2007 or December 2007 for each of the eight plants operated by CES in the SERC Region, verification that CES was providing seasonal data to its Host Balancing Authority and Transmission Service Provider, as well as screenshots from its Independent Power Producer Schedule Request system. The screenshots from the tagging system were reviewed to ensure unique code, creation/approval of tag date, start date, generation and market flow. The more detailed information served to confirm compliance with IRO-004-1 for certain plants where the date stamp could not be confirmed from the screenshots originally provided.

SERC Staff concluded that the facts and evidence supported a finding that CES violated IRO-004-1 R4, because at the time of the Audit, CES was unable to produce evidence to show that it was providing its Reliability Coordinator information required for system studies.

SERC Staff concluded that the alleged violations of TOP-002-2 R3, TOP-003-0 R1, and TOP-005-1 R4 and IRO-004-1 R4 did not create a serious or substantial risk to the reliability of the bulk power system, because CES was performing the required notifications for the standard, but was unable to produce the required evidence at the time of the Audit. SERC concluded the duration of the alleged violations was from June 12, 2008, the last day of the Audit, through October 24, 2008, when CES completed its Mitigation Plans.<sup>7</sup>

SERC has assessed a penalty of twenty thousand dollars (\$20,000) for the referenced alleged violations. In reaching this assessment, SERC Staff considered the following factors in the determination of the appropriate penalty for CES's alleged violations of TOP-002-2 R3, TOP-003-0 R1, TOP-005-1 R4, and IRO-004-1 R4 pursuant to this Settlement Agreement:

- a. CES had no prior violation history for any Reliability Standards during the mandatory reliability period;
- b. CES cooperated with SERC Staff during the investigation;
- c. CES agreed to resolve this issue via settlement and initiated various mitigation actions and preventative measures before receiving a Notice of Alleged Violation and Proposed Penalty or Sanction from SERC;
- d. CES provided responses to all of SERC Staff's data requests, but initially was unable to provide the information requested to verify the scope of the violation;
- e. CES has implemented a wide-range of measures to address the alleged violations, to protect against future violations of the same or similar requirements and to strengthen its internal compliance program; and
- f. CES possessed a clear lack of intent to commit or to conceal the alleged violations.

After consideration of these and the above factors, SERC determined that, in this instance, the penalty amount of twenty thousand dollars (\$20,000) is appropriate and bears a reasonable relation to the seriousness and duration of the alleged violations.

### **Status of Mitigation Plan and Settlement Agreement Actions<sup>8</sup>**

On July 25, 2008, CES submitted four draft mitigation plans to address the alleged violations of TOP-002-2 R3, TOP-003-0 R1, TOP-005-1 R4 and IRO-004-4 R4. Based on a request from SERC, the four Mitigation Plans were resubmitted on August 13, 2008 to provide additional details regarding and clarification of the included milestones.<sup>9</sup> The Mitigation Plans were accepted by SERC on October 2, 2008 and approved by NERC on October 20, 2008. The Mitigation Plan for CES' alleged violation of TOP-002-2 R3, TOP-003-0 R1, TOP-005-1 R4 and

<sup>7</sup> For the purpose of determining the penalty, SERC concluded the duration of the alleged TOP-002-2 R3, TOP-003-0 R1, and TOP-005-1 R4 violations was from June 12, 2008, the last day of the Audit, through June 25, 2008, when evidence of compliance was provided to SERC.

<sup>8</sup> See 18 C.F.R § 39.7(d)(7).

<sup>9</sup> CES did not change the submittal date on the Mitigation Plans from July 25, 2008 to August 13, 2008.



IRO-004-4 R4 were designated as MIT-07-1066, MIT-07-1065, MIT-07-1064 and MIT-07-1067, respectively. The Mitigation Plans were submitted as non-public information to FERC on October 20, 2008 in accordance with FERC orders.

Actions implemented by CES in its Mitigation Plans will help to prevent a recurrence of any similar violation. Specifically:

- a. Calpine Corporation has hired a director by Calpine Corporation to represent CES to report to its Vice President, Government & Regulatory Affairs<sup>10</sup> to oversee NERC compliance activities. The new director is responsible for establishing an effective, efficient and controlled environment which will ensure compliance with all applicable NERC standards and requirements within CES.
- b. CES revised its current process and procedures to align with the use of its Plant Declaration Portal Application. The Plant Declaration Portal Application allows plant personnel to “declare” or formally communicate plant generation capabilities, thermal performance, and equipment availability to the trading and dispatch personnel. The tool also gives the Calpine’s trading desk the ability to e-mail Balancing Authorities and Transmission Service Providers the capabilities of an individual plant. This function also has historical record keeping ability and can assist Calpine in its compliance with the NERC Reliability Standards. Procedures will include outage reporting requirements, forms, and contacts for each applicable Transmission Operator standard as established by each Transmission Service Provider.
- c. CES tested and implemented the Plant Declaration Portal which enables a systematic, consistent exchange of plant data both internal and external to Calpine. It allows users to send the MW data via e-mail to specified recipients within the Reliability Coordinator Area for system studies;
- d. CES will utilize the archive feature of the OATI E-tag program to maintain historical data;
- e. CES stores all external e-mail in the East Generation mailbox for auditing purposes; and
- f. CES conducted training for all East Real-Time and Day-Ahead personnel on revised procedures, purpose and use of Plant Declaration Portal and requirements.

On October 30, 2008, CES certified that its Mitigation Plans for TOP-002-2 R3, TOP-003-0 R1, TOP-005-1 R4 and IRO-004-1 R4 were completed on October 24, 2008 and submitted the following evidence:

- OATI tags for all eight plants covering multiple days and months to verify unique tag, date and time of creation, status, start and stop time of exchange, transmission system that transaction is taking place;

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<sup>10</sup> The Mitigation Plan states that the new position will report to the Corporate Director, Government & Regulatory Affairs and will oversee compliance activities within CCO, however the Settlement Agreement states that the position will report to Vice President, Government & Regulatory Affairs.

- Independent Power Producer Schedule confirming notification status date and time for information required for system studies, such as critical facility status, Load, generation, operating reserve projections, and known Interchange Transactions;
- SERC staff spoke with, and received the business card of, the new director responsible for compliance with the NERC Reliability Standards within the company's compliance organization;
- E-mails confirming outage scheduling coordination with appropriate entities;
- *Requirements\_Plant-Dec-East.doc* – This is a requirements document for the Plant Declaration Application that CES implemented to help prevent recurrence. The application allows CES declare or formally communicate plant generation capabilities, thermal performance, and equipment availability to the trading and dispatch personnel. The tool also gives the Trading Desk the ability to e-mail Balancing Authorities and Transmission Service Providers individual plant's capabilities. This function also has historical record keeping ability and allows Calpine to be compliant with NERC Standards TOP-002-2 and TOP-003-0. The tool also copies each plants e-mails to the "Generation Desk East" mailbox for historical purposes and easy retrieval; and
- Plant Declaration-Commercial Operations Process document and attestation to training on Plant Declaration Process for appropriate personnel.

On December 22, 2008, SERC Staff finished its review of CES' supporting evidence, verified that CES had completed all the required actions in the Mitigation Plans as of October 24, 2008 and determined that CES was in compliance with the referenced Reliability Standards.

### **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 November 9, 2009. The NERC BOTCC approved the Settlement Agreement, including SERC's imposition of a financial penalty of twenty thousand dollars (\$20,000) against CES, and other actions to promote prospective compliance required under the terms and conditions of the Settlement Agreement. In approving the Settlement Agreement, the NERC BOTCC reviewed the applicable requirements of the Commission-approved Reliability Standards and the underlying facts and circumstances of the alleged violations at issue.

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

- (1) Notwithstanding that CES received notification and instructions from SERC on December 17, 2007 regarding the Compliance Audit to be conducted June 9, 2008

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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).

through June 12, 2008, at the time of and during that audit CES failed to provide adequate documentation to SERC to evidence its compliance with the Reliability Standards requirements associated with the instant violations;

- (2) There was no serious or substantial risk to the bulk power system for the reasons stated above;
- (3) Although CES was unable to provide evidence of compliance to the SERC auditors, SERC Staff reported that CES cooperated with SERC Staff during the Enforcement investigation; and
- (4) As described above, CES has implemented a wide-range of measures to address the alleged violations and to protect against future violations of the same or similar requirements.

For the foregoing reasons, the NERC BOTCC approves the Settlement Agreement and believes that the proposed twenty thousand dollar (\$20,000) 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) SERC's Auditor Screening Worksheets dated June 13, 2008, included as Attachment a;
- b) Settlement Agreement by and between CES and SERC executed July 7, 2009, included as Attachment b;
  - i) CES' Mitigation Plan MIT-07-1064 (TOP-005-1 R4), submitted August 13, 2008 included in Settlement Agreement as Appendix A-1;
  - ii) CES' Certification of Completion of Mitigation Plan MIT-07-1064 (TOP-005-1 R4), dated October 30, 2008 included in Settlement Agreement as Appendix A-2;<sup>13</sup>
  - iii) SERC's Verification of Completion of Mitigation Plan MIT-07-1064 (TOP-005-1 R4), dated December 22, 2008 included in Settlement Agreement as Appendix A-3;
  - iv) CES' Mitigation Plan MIT-07-1065 (TOP-003-0 R1), submitted August 13, 2008 included in Settlement Agreement as Appendix A-4;
  - v) CES' Certification of Completion of Mitigation Plan MIT-07-1065 (TOP-003-0 R1), submitted October 24, 2008 included in Settlement Agreement as Appendix A-5;<sup>14</sup>

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<sup>13</sup> CES' Certification of Completion for MIT-07-1064 contains a signature date of October 24, 2008.

<sup>14</sup> CES' Certification of Completion for MIT-07-1065 incorrectly states the date of Certification as October 30, 2008; the correct date is October 24, 2008.



- vi) SERC's Verification of Completion of MIT-07-1065 (TOP-003-0 R1), dated December 22, 2008 included in Settlement Agreement as Appendix A-6;
- vii) CES' Mitigation Plan MIT-07-1066 (TOP-002-2 R3), submitted August 13, 2008 included in Settlement Agreement as Appendix A-7;
- viii) CES' Certification of Completion of Mitigation Plan MIT-07-1066 (TOP-002-2 R3), submitted October 24, 2008 included in Settlement Agreement as Appendix A-8;<sup>15</sup>
- ix) SERC's Verification of Completion of MIT-07-1066 (TOP-002-2 R3), dated December 22, 2008 included in Settlement Agreement as Appendix A-9;
- x) CES' Mitigation Plan MIT-07-1067 (IRO-004-1 R4), submitted August 13, 2008 included in Settlement Agreement as Appendix A-10;
- xi) CES' Certification of Completion of Mitigation Plan MIT-07-1067 (IRO-004-1 R4), submitted October 24, 2008 included in Settlement Agreement as Appendix A-11;<sup>16</sup> and
- xii) SERC's Verification of Completion of MIT-07-1067 (IRO-004-1 R4), dated December 22, 2008 included in Settlement Agreement as Appendix A-12.

**A Form of Notice Suitable for Publication**<sup>17</sup>

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

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<sup>15</sup> CES' Certification of Completion for MIT-07-1066 incorrectly states the date of Certification as October 30, 2008; the correct date is October 24, 2008.

<sup>16</sup> CES' Certification of Completion for MIT-07-1067 incorrectly states the date of Certification as October 30, 2008; the correct date is October 24, 2008.

<sup>17</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>Gerald W. Cauley* President and Chief Executive Officer David N. Cook* Vice President and General Counsel North American Electric Reliability Corporation 116-390 Village Boulevard Princeton, N.J. 08540-5721 (609) 452-8060 (609) 452-9550 – facsimile gerry.cauley@nerc.net david.cook@nerc.net</p> <p>Duncan Brown* Vice President – NERC Compliance Calpine Corporation 4160 Dublin Blvd, Suite 100 Dublin, CA 94568 (925) 557-2251 (925) 479-9175 - facsimile duncanb@calpine.com</p> <p>Diana M. Woodman* Senior Counsel Calpine Corporation 717 Texas Ave., Ste 1000 Houston, TX 77002 (713) 820-4030 (713) 830-8751 - facsimile dwoodman@calpine.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>	<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>Thomas J. Galloway* Interim President and Chief Executive Officer SERC Reliability Corporation 2815 Coliseum Centre Drive Charlotte, NC 28217 (704) 940-8205 (704) 357-7914 – facsimile tgalloway@serc1.org</p> <p>Marisa A. Sifontes * Interim Director of Compliance and Compliance Legal Counsel SERC Reliability Corporation 2815 Coliseum Centre Drive Charlotte, NC 28217 (704) 494-7775 msifontes@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>
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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,

Gerald W. Cauley  
President and Chief Executive Officer  
David N. Cook  
Vice President and General Counsel  
North American Electric Reliability Corporation  
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/s/ Rebecca J. Michael  
Rebecca J. Michael  
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(202) 393-3955 – facsimile  
rebecca.michael@nerc.net  
holly.hawkins@nerc.net

cc: Calpine Energy Services  
SERC Reliability Corporation

Attachments

**Attachment a**

**SERC's Auditor Screening Worksheets dated  
June 13, 2008**

## Screening Worksheet

Tracking Number

Entity Name
Calpine Energy Services

Is Entity Registered?
Yes

Entity Contact
Brent Hebert

Entity Telephone Number
713 570-4469

Standard	Requirement
TOP-002-2	R3

Is Issue Still Occurring?
Yes

Remedial Action Directive?
No

Date Issue Occurred
6/12/08

Date Issue/Event Reported
6/12/08

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										

Brief Description
With the exception of one of their 8 facilities, the entity did not provide evidence that current-day, next-day and seasonal operations had been coordinated with its host balancing authority and transmission service provider.

Detailed Description
<p>The entity indicated that they would provide daily availability reports, OATI tags and yearly outage scheduling correspondence to verify compliance with this requirement. The audit team asked that they provide these documents for the period of the week of July 4<sup>th</sup> 2007.</p> <p>After 2 ½ hours, the entity's SME indicated that he was unable to provide the requested documents for that time period, stating that he was new in his position and only had access to records back through November of last year.</p> <p>The audit team requested the entity to supply documents for the period of the 1<sup>st</sup> week of November, 2007.</p> <p>After 4 hours, the entity SME indicated that he was unable to provide any of the documents.</p>

Prepared By	Date
James R. Harrell	6/13/08

## Screening Worksheet

Tracking Number

Entity Name
Calpine Energy Services

Is Entity Registered?
Yes

Entity Contact
Brent Hebert

Entity Telephone Number
713 570-4469

Standard	Requirement
TOP-003-0	R1

Is Issue Still Occurring?
Yes

Remedial Action Directive?
No

Date Issue Occurred
6/12/08

Date Issue/Event Reported
6/12/08

Method of Discovery
Audit

NERC 48-Hour Reportable?
Yes

Threat to BES?
No

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

Brief Description
With the exception of one of their 8 facilities, the entity did not provide evidence outage information had been provided daily to its Transmission Operator.

Detailed Description
<p>The entity indicated that they would provide daily availability reports and OATI tags to verify compliance with this requirement. The audit team asked that they provide these documents for the period of the week of July 4<sup>th</sup> 2007.</p> <p>After 2 ½ hours, the entity's SME indicated that he was unable to provide the requested documents for that time period, stating that he was new in his position and only had access to records back through November of last year.</p> <p>The audit team requested the entity to supply documents for the period of the 1<sup>st</sup> week of November, 2007.</p> <p>After 4 hours, the entity SME indicated that he was unable to provide any of the documents.</p>

Prepared By	Date
James R. Harrell	6/13/08



## Screening Worksheet

Tracking Number

Entity Name
Calpine Energy Services

Is Entity Registered?
Yes

Entity Contact
Brent Hebert

Entity Telephone Number
713 570-4469

Standard	Requirement
TOP-005-1	R4

Is Issue Still Occurring?
Yes

Remedial Action Directive?
No

Date Issue Occurred
6/12/08

Date Issue/Event Reported
6/12/08

Method of Discovery
Audit

NERC 48-Hour Reportable?
Yes

Threat to BES?
No

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

Brief Description
With the exception of one of their 8 facilities, the entity did not provide evidence they had supplied the information requested by their host balancing authority and transmission operator to allow them to conduct operational reliability assessments and coordinate reliable operations.

Detailed Description
<p>The entity indicated that they would provide daily availability reports and OATI tags to verify compliance with this requirement. The audit team asked that they provide these documents for the period of the week of July 4<sup>th</sup> 2007.</p> <p>After 2 ½ hours, the entity's SME indicated that he was unable to provide the requested documents for that time period, stating that he was new in his position and only had access to records back through November of last year.</p> <p>The audit team requested the entity to supply documents for the period of the 1<sup>st</sup> week of November, 2007.</p> <p>After 4 hours, the entity SME indicated that he was unable to provide any of the documents.</p>

Prepared By	Date
James R. Harrell	6/13/08

## Screening Worksheet

Tracking Number

Entity Name
Calpine Energy Services

Is Entity Registered?
Yes

Entity Contact
Brent Hebert

Entity Telephone Number
713 570-4469

Standard	Requirement
IRO-004-1	R4

Is Issue Still Occurring?
Yes

Remedial Action Directive?
No

Date Issue Occurred
6/18/07

Date Issue/Event Reported
6/12/08

Method of Discovery
Audit

NERC 48-Hour Reportable?
Yes

Threat to BES?
No

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

Brief Description
With the exception of one of their 8 facilities, the entity did not provide evidence that information required for system studies had been provided to the appropriate entities.

Detailed Description
<p>The entity indicated that they would provide daily availability reports and OATI tags to verify compliance with this requirement. The audit team asked that they provide these documents for the period of the week of July 4<sup>th</sup> 2007.</p> <p>After 2 ½ hours, the entity's Subject Matter Expert (SME) indicated that he was unable to provide the requested documents for that time period, stating that he was new in his position and only had access to records back through November of last year.</p> <p>The audit team requested the entity to supply documents for the period of the 1<sup>st</sup> week of November, 2007.</p> <p>After 4 hours, the entity SME indicated that he was unable to provide any of the documents.</p> <p>The entity was notified, well in advance of the audit, of the requirement to have evidence of compliance available for auditor review. Notifications were provided in Calpine's List of Documents to be Provided or Have Available, Introduction Letter, and during a Pre-Audit Webex.</p>

Prepared By	Date
James R. Harrell	6/13/08

## **Attachment b**

# **Settlement Agreement by and between CES and SERC executed July 7, 2009**

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**SETTLEMENT AGREEMENT**

**OF**

**SERC RELIABILITY CORPORATION**

**AND**

**CALPINE ENERGY SERVICES, L.P.**

**I. INTRODUCTION**

1. SERC Reliability Corporation (“SERC”) and Calpine Energy Services, L.P. (“CES”) 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 four alleged violations by CES of NERC Reliability Standards TOP-002-2 (Normal Operations Planning) Requirement 3 (SERC Tracking No. 08-055, NERC Violation ID No. SERC200800140, TOP-003-0 (Planned Outage Coordination) Requirement 1 (SERC Tracking No. 08-054, NERC Violation ID No. SERC200800139), TOP-005-2 (Operational Reliability Information) Requirement 4 (SERC Tracking No. 08-051, NERC Violation ID No. SERC 200800136, and IRO-004-1 (Reliability Coordination – Operations Planning) Requirement 4 (SERC Tracking No. 08-056, NERC Violation ID No. SERC200800141).

**II. STIPULATION**

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

**Background**

3. Calpine Corporation is an independent power producer engaged in the production and sale of electricity in the United States and Canada. Calpine is the largest independent power producer in the United States with 78 power plants located throughout the NERC regions. Calpine’s principal offices are located in Houston, Texas.
4. CES is a wholly owned subsidiary of Calpine Corporation.

5. CES is registered with SERC as a Generator Operator (“GOP”) and a Purchasing-Selling Entity (“PSE”) (NCR01189).
6. On December 17, 2007, SERC notified CES that a compliance audit to determine its compliance with the NERC Reliability Standards had been scheduled for June 9-11, 2008.<sup>1</sup>
7. On March 14, 2008, SERC Staff sent a letter to CES detailing, among other things, the Reliability Standards that would be the focus of the upcoming compliance audit. Among the standards to be audited were TOP-002-2 (Normal Operations Planning), TOP-003-0 (Planned Outage Coordination), TOP-005-1 (Operational Reliability Information) and IRO-004-1 (Reliability Coordination – Operations Planning).

### **Alleged Violations**

8. NERC Reliability Standard TOP-002-2, Requirement 3 requires a Generator Operator to coordinate its current-day, next-day and seasonal operations with its Host Balancing Authority and Transmission Service Provider.<sup>2</sup>
9. NERC Reliability Standard TOP-003-0, Requirement 1 requires that a Generator Operator provide planned outage information. Requirement 1.1 states that, “[e]ach Generator Operator shall provide outage information daily to its Transmission Operator for scheduled generator outages planned for the next day....” Requirement 1.3 further requires that such information be provided by 1200 Central Standard Time for the Eastern Interconnection.<sup>3</sup>
10. NERC Reliability Standard TOP-005-1, Requirement 4 requires a Purchasing and Selling Entity to provide Host Balancing Authorities and Transmission Operators with information, as requested, to enable them to conduct operational reliability assessments and coordinate reliable operations.<sup>4</sup>

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<sup>1</sup> CES and its affiliate, Calpine Corporation (NCR00006), as registered GO, were noticed that both entities would be audited during the scheduled period.

<sup>2</sup> NERC Reliability Standard TOP-002-2 – Normal Operations Planning, approved by NERC Board of Trustees on November 1, 2006, approved by FERC effective June 18, 2007.

<sup>3</sup> NERC Reliability Standard TOP-003-0 –Planned Outage Coordination, approved by NERC Board of Trustees on February 8, 2005, approved by FERC effective June 18, 2007.

<sup>4</sup> NERC Reliability Standard TOP-005-1 - Operational Reliability Information, approved by NERC Board of Trustees on February 6, 2007, approved by FERC effective June 18, 2007.

11. NERC Reliability Standard IRO-004-1, Requirement 4 requires a Generator Operator to provide to its Reliability Coordinator information required for system studies, such as critical facility status, Load, generation, operating reserve projections, and known Interchange Transactions. The information must be provided by 1200 Central Standard Time for the Eastern Interconnection.<sup>5</sup>
12. During the scheduled audit that commenced on June 9, 2008 and ended on June 12, 2008,<sup>6</sup> CES was unable to produce evidence that it was:
  - a. Coordinating its current-day, next-day and seasonal operations with its Host Balancing Authority;
  - b. Providing outage information daily to its Transmission Operator;
  - c. Providing information to its Host Balancing Authority and Transmission Operator for operational reliability assessments and to coordinate reliable operations; or
  - d. Providing its Reliability Coordinator with information required for system studies.
13. At the completion of the audit, the Audit Team identified four possible violations of the NERC Reliability Standards. The Audit Team Lead completed an audit screening worksheet and submitted it to Enforcement Staff.
14. After confirming CES's NERC registration status, SERC Staff commenced its detailed compliance assessment. On June 17, 2008, SERC Staff issued to CES a Compliance Assessment Notice advising CES of the initiation of a formal assessment to determine, in part, its compliance relative to NERC Reliability Standards TOP-002-2, Requirement 3, TOP-003-0, Requirement 1, TOP-005-1, Requirement 4 and IRO-004-1, Requirement 4 and directing CES to preserve all relevant records and information. At this time, SERC Staff contacted CES with questions to assist in its assessment, to which CES promptly responded. Specifically, SERC Staff requested OATI tags for all eight plants and additional evidence to show CES's compliance with these standards. SERC Staff promptly established direct contact with representatives of CES to begin the process of gathering information and documentation for the detailed compliance assessment. SERC Staff also reported the possible violations to NERC, which, in turn, reported the possible violations to the Federal Energy Regulatory Commission ("Commission") in accordance with the

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<sup>5</sup> NERC Reliability Standard IRO-004-1 – Reliability Coordination – Operations Planning, approved by NERC Board of Trustees on February 7, 2006, approved by FERC effective June 18, 2007.

<sup>6</sup> The audit was originally scheduled to end on June 11, 2008.



Compliance Monitoring Enforcement Program (“CMEP”) of the NERC Rules of Procedure.

15. On June 25, 2008, CES provided SERC with evidence, in the form of electronic tags from its OATI tagging system, showing that it had been providing the information required by NERC Reliability Standards TOP-002-2, Requirement 3, TOP-003-0, Requirement 1, TOP-005-1 and Requirement 4 to its Balancing Authority and Transmission Service Provider.
16. SERC Staff subsequently requested, and CES provided, additional screenshots of the electronic tags for the months October or December 2007 for each of the eight plants operated by CES in the SERC region, verification that CES was providing seasonal data to its Host Balancing Authority and Transmission Service Provider, as well as screen shots from its Independent Power Producer Schedule Request system. The print screens from the tagging system were reviewed to ensure unique code, creation/approval of tag date, start date, generation and market flow. The more detailed information served to confirm compliance with NERC Reliability Standard IRO-004-1 for certain plants where the date stamp could not be confirmed from the screenshots originally provided.
17. SERC Staff concluded that the facts and evidence supported a finding that CES violated NERC Reliability Standard TOP-002-2, Requirement 3, because at the time of the audit, CES was unable to produce evidence to show that it was coordinating its current-day, next-day and seasonal operation with its Host Balancing Authority and Transmission Service Provider. Requirement 3 of NERC Reliability Standard TOP-002-2 is assigned a “Medium” VRF consistent with the VRF filed by NERC and approved by the Commission.
18. SERC Staff concluded that the facts and evidence supported a finding that CES violated NERC Reliability Standard TOP-003-0, Requirement 1, because at the time of the audit, CES was unable to produce evidence to show that it was providing outage information daily to its Transmission Operator. Requirement 1 of NERC Reliability Standard TOP-003-0 is assigned a “Medium” VRF consistent with the VRF filed by NERC and approved by the Commission.
19. SERC Staff concluded that the facts and evidence supported a finding that CES violated NERC Reliability Standard TOP-005-1, Requirement 4, because at the time of the audit, CES was unable to produce evidence to show that it was providing information to its Host Balancing Authority and Transmission Operator for operational reliability assessments and to coordinate reliable operations. Requirement 4 of NERC Reliability Standard TOP-005-1 is assigned a “Medium” VRF consistent with the VRF filed by NERC and approved by the Commission.

20. SERC Staff concluded that the facts and evidence supported a finding that CES violated NERC Reliability Standard IRO-004-1, Requirement 4, because at the time of the audit, CES was unable to produce evidence to show that it was providing its Reliability Coordinator information required for system studies. Requirement 4 of NERC Reliability Standard IRO-004-1 is assigned a “High” VRF consistent with the VRF filed by NERC and approved by the Commission.
21. SERC Staff concluded that the actual or foreseeable risk to the reliability of the bulk power system as a result of the alleged violations was minimal, as Calpine was performing the required notifications for each of the standards, but was unable to produce evidence of that at the time of the audit.
22. On January 6, 2009, CES formally requested settlement discussions for the resolution of the alleged violations.

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

#### **Statement of SERC and Summary of Findings**

23. SERC finds that beginning on June 12, 2008 and continuing until June 25, 2008, CES, as a Generator Operator, could not produce evidence or records to confirm that it was providing current, next day and seasonal operations information to its Host Balancing Authority and Transmission Service Provider. This is a violation of NERC Reliability Standard TOP-002-2, Requirement 3.
24. SERC finds that beginning on June 12, 2008 and continuing until June 25, 2008, CES, as a Generator Operator, could not produce evidence or records to confirm that it was providing daily outage information to its Transmission Operator. This is a violation of NERC Reliability Standard TOP-003-0, Requirement 1.
25. SERC finds that beginning on June 12, 2008 and continuing until June 25, 2008, CES, as a Purchasing and Selling Entity, could not produce evidence or records to confirm that it was providing its Host Balancing Authority with information to enable them to conduct operational reliability assessments and coordinate reliable operations. This is a violation of NERC Reliability Standard TOP-005-1, Requirement 4.
26. SERC finds that beginning on June 12, 2008 and continuing until October 24, 2008, CES, as a Generator Operator, was not providing its Reliability Coordinator with information required for system studies. This is a violation of NERC Reliability Standard IRO-004-1, Requirement 4.
27. SERC considered a number of factors in determining the penalty for the violations including:

- a. CES has had no prior violation history for any reliability standards during the mandatory reliability period.
  - b. CES cooperated in both a timely and satisfactory manner with SERC Staff during the investigation.<sup>7</sup> CES provided prompt responses to all of SERC Staff's data requests and cooperated with SERC Staff during meetings between the parties to discuss these events. CES provided supporting information to SERC Staff when requested to assist in SERC Staff's review of the facts and circumstances. This included the submission of detailed mitigation plans, chronological evidence and copies of procedures for review. CES's response to SERC Staff's questions enabled SERC Staff to conduct a thorough investigation in an efficient manner.
  - c. CES agreed to resolve this dispute via settlement and promptly initiated various mitigation actions and preventative measures before receiving a Notice of Alleged Violation from SERC.
  - d. CES implemented a wide-range of measures in its mitigation plans, as set forth in Paragraph 34 to protect against future violations of the same or similar requirements.<sup>8</sup>
28. SERC Staff concluded that the actual or foreseeable impact of the alleged violations on the reliability of the bulk power system was low, as discussed above.
29. 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 CES**

30. CES neither admits nor denies that the facts set forth and agreed to by the parties for purposes of this Agreement constitute violations of NERC Reliability Standards TOP-002-2, Requirement 3, TOP-003-0, Requirement 1, TOP-005-1, Requirement 4 and IRO-004-1, Requirement 4.
31. CES has entered into this settlement agreement to avoid lengthy proceedings and expedite the settlement of alleged violations. Although CES does not admit to, nor does it deny, the alleged violations of NERC Reliability Standards TOP-002-2, Requirement 3, TOP-003-0, Requirement 1, TOP-005-1, Requirement 4 and IRO-004-1, Requirement 4, CES 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

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<sup>7</sup> Revised Policy Statement on Enforcement, 123 FERC ¶ 61,156, P 65 (May 15, 2008).

<sup>8</sup> Policy Statement on Compliance, 125 FERC ¶ 61,058 (October 16, 2008).

issues set forth herein. CES agrees that this agreement is in the best interest of the parties and in the best interest of maintaining a reliable electric infrastructure.

32. Although CES was unable to promptly produce documentary proof of its compliance with the above Reliability Standards, it was consistently in compliance with all NERC Reliability Standards requiring the transmittal of the operating information to the TO and the BA.

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

33. CES submitted four mitigation plans to address each of the alleged violations. Due to the inter-related nature of the standards involved, the actions to be implemented to address the alleged violations were common across the four mitigation plans. CES originally submitted each of the four mitigation plans on July 25, 2008. These were later revised on August 13, 2008 to provide additional details of and clarification for the included milestones. Mitigation Plan MIT-07-1064 for NERC Reliability Standard TOP-005-1, Requirement 4, MIT-07-1065 for NERC Reliability Standard TOP-003-0, Requirement 1, Mitigation Plan MIT07-1066 for NERC Reliability Standard TOP-002-2, Requirement 3 and Mitigation Plan MIT-07-1067 for NERC Reliability Standard IRO-004-1, Requirement 4 were each accepted by SERC on October 2, 2008 and were approved by NERC on October 20, 2008. CES's Mitigation Plans were completed on October 24, 2008. Each of CES's Mitigation Plans is attached hereto in Appendix A.
34. Actions implemented by CES in its Mitigation Plans will help to prevent a recurrence of any similar violation. Specifically:
  - a. Calpine Corporation has hired a director within CES to report to its Vice President, Government & Regulatory Affairs to oversee NERC compliance activities. The new director is responsible for ensuring compliance with all applicable NERC standards and requirements within CES.
  - b. CES revised its current process and procedures to align with the use of its Plant Declaration Portal Application. The Plant Declaration Portal Application allows plant personnel to "declare" or formally communicate plant generation capabilities, thermal performance, and equipment availability to the trading and dispatch personnel. The tool also gives the Calpine's trading desk the ability to email Balancing Authorities and Transmission Service Providers the capabilities of an individual plant. This function also has historical record keeping ability and can assist Calpine in its compliance with the NERC Reliability Standards. Procedures will include outage reporting requirements, forms, and contacts for each applicable TOP standard as established by each Transmission Service Provider.

- c. CES implemented the Plant Declaration Portal which enables a systematic, consistent exchange of data both internal and external to Calpine. It allows users to send the MW data via email to specified recipients within the RC area for system studies.
  - d. CES will utilize the archive feature of the OATI E-tag program to maintain historical data.
  - e. CES stores all external email in the East Generation mailbox for auditing purposes.
  - f. CES conducted training for all East Real-Time and Day-Ahead personnel on revised procedures, purpose and use of Plant Declaration Portal and requirements.
35. SERC has reviewed the preventative measures described in the Mitigation Plans and has determined that these measures will assist CES in improving prospective compliance with the requirements of all of the Reliability Standards, including NERC Reliability Standards TOP-002, TOP-003, TOP-005 and IRO-004 and will ultimately enhance the reliability of the bulk power system within an appropriate time-frame.
36. To verify completion of each of the mitigation plans, SERC reviewed OATI tags for all eight plants, screenshots provided from the Independent Power Producer Schedule Request system, emails confirming outage scheduling coordination with appropriate entities, and plant availability screenshots from the Plant Declaration Application. SERC Staff also reviewed the Plant Declaration Application Process Attestation of Training on Plant Declaration Process and the Plant Declaration Application Process. SERC staff also spoke with the new director responsible for compliance with the NERC Reliability Standards within the company's compliance organization.
37. SERC Staff also considered the specific facts and circumstances of the violation and CES'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 [CES] to remedy the violation in a timely manner."<sup>9</sup> The factors considered by SERC Staff in the determination of the appropriate penalty for CES's alleged violations of NERC Reliability Standards TOP-002-2, TOP-003-0, TOP-005-1, and IRO-004-1 pursuant to this Settlement Agreement included the following:

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<sup>9</sup> 16 U.S.C. § 824o(e)(6).

- a. CES has had no prior violation of these Standards or any closely-related standard during the mandatory reliability period.
  - b. CES cooperated in both a timely and satisfactory manner with SERC Staff during the investigation.<sup>10</sup> CES provided prompt responses to all of SERC Staff's data requests and cooperated with SERC Staff during meetings between the parties to discuss these events. CES provided supporting information to SERC Staff when requested to assist in SERC Staff's review of the facts and circumstances. This included the submission of detailed mitigation plans, chronological evidence and copies of procedures for review. CES's response to SERC Staff's questions enabled SERC Staff to conduct a thorough investigation in an efficient manner.
  - c. CES agreed to resolve this issue via settlement and initiated various mitigation and preventative measures before receiving a Notice of Alleged Violation from SERC.
  - d. As described above, CES has implemented a wide-range of measures to address the alleged violations, to protect against future violations of the same or similar requirements and to strengthen its internal compliance program, as set forth in Paragraph 34.
51. Based on the above factors, as well as the mitigation actions and preventative measures taken, CES shall pay \$20,000 to SERC as set forth in this Settlement Agreement. CES 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 CES 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 CES 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.
  52. 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 CES to new or additional enforcement, penalty or sanction actions in accordance with the NERC Rules of Procedure. CES will retain all rights to defend against such enforcement actions in accordance with the NERC Rules of Procedure.

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<sup>10</sup> Revised Policy Statement on Enforcement, 123 FERC ¶ 61,156, P 65 (May 15, 2008).

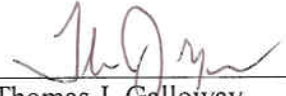


## V. ADDITIONAL TERMS


53. 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 CES 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.
54. 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 CES 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 CES 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.
55. 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.
56. CES agrees that this Settlement Agreement, when approved by NERC and the Commission, shall represent a final settlement of all matters set forth herein and CES waives its right to further hearings and appeal, unless and only to the extent that CES 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 CES in accordance with the NERC Rules of Procedure in the event that CES fails to comply with the mitigation plan and compliance program agreed to in this Settlement Agreement. In the event CES 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 CES 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, CES shall retain all rights to defend against such enforcement actions, also according to the NERC Rules of Procedure.

57. 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.
58. 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.
59. The Settlement Agreement may be signed in counterparts.
60. This Settlement Agreement is executed in duplicate, each of which so executed shall be deemed to be an original.

Agreed to and accepted:

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

7/7/09  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
W. Thaddeus Miller  
Corporate Secretary and Chief Legal Officer  
**CALPINE ENERGY SERVICES, L.P.**

7/2/09  
\_\_\_\_\_  
Date



## Mitigation Plan Submittal Form

Date this Mitigation Plan is being submitted: July 25, 2008

If this Mitigation Plan has already been completed:

- Check this box  and
- Provide the Date of Completion of the Mitigation Plan:

### **Section A: Compliance Notices**

- Section 6.2 of the CMEP<sup>1</sup> sets forth the information that must be included in a Mitigation Plan. The Mitigation Plan must include:
  - (1) The Registered Entity's point of contact for the Mitigation Plan, who shall be a person (i) responsible for filing the Mitigation Plan, (ii) technically knowledgeable regarding the Mitigation Plan, and (iii) authorized and competent to respond to questions regarding the status of the Mitigation Plan. This person may be the Registered Entity's point of contact described in Section 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.
  - (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.

<sup>1</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



- (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: Calpine Energy Services  
Company Address: 717 Texas Ave. Suite 1000, Houston Texas, 77002  
NERC Compliance Registry ID [*if known*]:

#### **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.**

Name: Brent Hebert  
Title: Director, Government & Regulatory Affairs, NERC Compliance  
Email: brent.hebert@calpine.com  
Phone: 713-570-4469



**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: TOP -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	08-051	R.4	06/13/2008

(\*) 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:

The draft Audit Report prepared by SERC stated the following: "Calpine was unable to provide day-ahead schedules, OATI tags or other evidence for the requested weeks of July 4, 2007 or the first week of November 2007". Although Calpine had the requested information, it had technical difficulty with retrieval of the information from it's systems in order to present the level of information required by SERC on the days of the audit. This information has now been provided and this mitigation plan specifically provides the ways in which Calpine is acting to make such information available and retrievable at all times.

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

## Appendix A-1



Calpine provided OATI E-tags as evidence of compliance with Standards INT - 001-2 and VAR - 001. This information is currently in the possession of Andrea Koch.

[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:

Calpine has developed a web-based application, Plant Declaration (aka Plant Dec), which enables a systematic, consistent exchange of data. Functionality includes an email feature to allow users to send the MW data (in excel format) via email to specified recipient(s) in the RC area for system studies. Please see attached project Requirements Document. Each plants summary email will be contained in the 'Generation Desk East' mailbox for NERC auditing purposes. This mailbox will contained all historic summary reports emailed, including date/time and content. The OATI E-tag programs has an archive feature. This feature will be used in future audits for retrieving historical OATI E-Tags Please see attachment OATI.doc and 2006tag.doc tag evidence.

This program will ensure that such information is immediately available and retrievable.

[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:  
.Project completion date is 10/24/2008

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)
Hire a Director, CCO Compliance. The	10/01/2008



# Appendix A-1



<p>director will report to the Corporate Director, Government &amp; Regulatory Affairs and will oversee compliance activities within CCO. The Director, CCO Compliance will establish an effective, efficient, and controlled environment which ensures compliance with all applicable standards and requirement.</p>	
<p>Revise current processes and procedures which will align with the use of the Plant Dec. Portal Application. Procedures will include outage reporting requirements, forms and contacts for each applicable TOP as established by each TOP</p>	<p>10/01/2008</p>
<p>Test and implement the Plant Dec. Portal for use of plant data exchange, both internal to Calpine and external. All external email will be contained in the East Generation mail box for auditing purposes.</p>	<p>10/10/2008</p>
<p>Conduct training for all East Real-Time and Day-Ahead personnel on revised procedures, purpose and use of the Plant Dec. Portal, and requirements. Training will be in the form of hand on for each 24 hour shift</p>	<p>10/24/2008</p>

(\* 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:

Please see attachment Requirements\_Plant-Dec-East

Please see attachment OATI.doc.

Please see attachment CCOjob.doc.

[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:

To the best of Calpine's knowledge, during the pendency of the mitigation plan, the reliability of the Bulk Power System will not be at a higher risk or be otherwise negatively impacted. At the time of the audit as well as now, Calpine Energy Services must reserve transmission via the OASIS system and create OATI E-tags for the host BA and TOP to approve. Approval of the OATI E-tag schedule must take place by the host BA and TOP before any transaction from a SERC facility is implemented. Calpine believes the risk to the the Bulk Power System was negligible, if any, prior to or at the time of the audit.

As proven by the additional evidence provide to SERC (post audit), Calpine was performing the functions or processes to meet the



requirements of this standard and will continue to meet the requirements during and after the completion of the mitigation plan. The mitigation plan outlined is to ensure that during future audits or requests for information Calpine Energy Services can produce the data in a timely fashion. The Plant Declaration Portal application will ensure a systematic and consistent approach to Calpine's internal and external data exchange and reporting.

[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:

Performance of the Mitigation Plan will enhance the internal process for record-keeping and thus make the relevant information more visible and accessible to all parties along with ensuring a systematic and consistent approach to data exchange and reporting.

[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:

Interviewing potential candidates for Director, CCO compliance. This person will reside on the Dispatch Floor and is charged with monitoring and ensuring compliance as the GOP/PSE subject matter expert. The Director, CCO compliance will assist in all compliance efforts including audit support.

[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 Corporate Director, Government & Regulatory Affairs - NERC Compliance of Calpine Corporation.
  - 2. I am qualified to sign this Mitigation Plan on behalf of Calpine Energy Services.
  - 3. I have read and understand Calpine Energy Services 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. Calpine Energy Services 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**

**Brent Hebert**

(Electronic signatures are acceptable; see CMEP)

Name (Print): J. Brent Hebert

Title: Corporate Director, Government & Regulatory Affairs, NERC Compliance

Date: July 25, 2008



**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.

We submitted information to substantiate compliance with these standards but believe we should mitigate to insure that we have sufficient proof of compliance for future audits.

[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 an 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: [Calpine Energy Services](#)

Date of Certification: [10/30/2008](#)

Name of Standard and the Requirement(s) of mitigated violation(s): [TOP-005-1/R4](#)

SERC Tracking Number (contact SERC if not known): 08-051

NERC Violation ID Number (if assigned):

**Date of completion of the Mitigation Plan:** 10/24/08

Summary of all actions described in Part D of the relevant mitigation plan:

Description of the information provided to SERC for their evaluation:

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: [J. Brent Hebert](#)

Title: [Corporate Director, Government & Regulatory Affairs and NERC Compliance](#)

Entity: [Calpine Energy Services](#)

Email: [Brent.hebert@calpine.com](mailto:Brent.hebert@calpine.com)

Phone: 713-570-4469

DesignatedSignature     *J. Brent Hebert*     Date     10/24/08    

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

**(Form Revised August 13, 2008)**



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

Registered Entity: Calpine Energy Services  
SERC Tracking ID: 08-051  
NERC Violation No: SERC200800136  
NERC Mitigation Plan ID: MIT-07-1064  
Standard: TOP-005-1  
Requirement(s): 4

### Violation Summary:

The Entity was found in violation of TOP-005-1, R4 for its failure to provide evidence, at its duly-noticed scheduled compliance audit, that it was providing information as requested by its Host Balancing Authorities and Transmission Operators to enable them to conduct operational reliability assessments and coordinate reliable operations. The Entity failed to properly prepare for the audit so as to be able to provide evidence upon request from SERC. In as much as the Entity was subsequently able to produce evidence of compliance with the requirement, the violation, while not excused, is considered a documentation-only issue and a lower VSL is applied.

### Mitigation Plan Summary:

Calpine Energy Services Mitigation Plan to address the referenced violation was originally submitted on July 25, 2008 and revised on August 13, 2008 to provide additional details of and clarification for the included milestones and was accepted by SERC on October 2, 2008 and approved by NERC on October 20, 2008. The Mitigation Plan is identified as MIT-07-1064 and was submitted as non-public information to FERC on October 20, 2008 in accordance with FERC orders.

The mitigation plan covers actions to prevent recurrence and improve the Entity's ability to provide documentation upon request by the Region. Entity will revise current processes and procedures which will align with the use of the Entity's "Plant Declaration Portal Application." Procedures will include outage reporting requirements, forms and contacts for each applicable TOP as established by each TOP. Entity will test and implement the Plant Declaration Portal for use of plant data exchange, both internal to Entity and external. All Entity external emails will be contained in a specified mail box for auditing purposes. Entity will conduct training for all Real-Time and Day-Ahead personnel on revised procedures, purpose and use of the Plant Declaration Portal, and requirements. The mitigation plan will be completed by 10/24/2008.





## **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.

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

Calpine Energy Services certified on October 30, 2008 that the subject Mitigation Plan was completed on October 24, 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:**

Calpine Energy Services submitted and SERC Staff reviewed the following evidence in support of its certification that its Mitigation Plan was completed in accordance with its terms:

OATI tags for all eight plants covering multiple days and months to verify unique tag, date and time of creation, status, start and stop time of exchange, transmission system that transaction is taking place

Independent Power Producer Schedule confirming notification status date and time for information required for system studies, such as critical facility status, Load, generation, operating reserve projections, and known Interchange Transactions.

Business card of and spoke with the new director responsible for compliance with the NERC Reliability Standards within the company's compliance organization

Emails confirming outage scheduling coordination with appropriate entities

Requirements\_Plant-Dec-East.doc – This is a requirements document for the Plant Declaration Application that CES implemented to help prevent recurrence. The application allows CES declare" or formally communicate plant generation capabilities, thermal performance, and equipment availability to the trading and dispatch personnel. The tool also gives the Trading Desk the ability to email Balancing Authorities and Transmission Service Providers individual plant's capabilities. This function also has historical record keeping ability and allows Calpine to be compliant with NERC



Standards TOP-002 and TOP-003. The tool also copies each plants email to the “Generation Desk East” mailbox for historical purposes and easy retrieval.

Plant Declaration---Commercial Operations Process document and attestation to training on Plant Declaration Process for appropriate personnel

**Conclusion:**

On December 22, 2008 SERC Reliability Corporation Compliance Staff (“SERC Staff”) completed its review of the evidence submitted by Calpine Energy Services 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 Calpine Energy Services 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,**

Andrea Koch, Compliance Engineer  
Steve Gibe, Senior Compliance Auditor



## Mitigation Plan Submittal Form

Date this Mitigation Plan is being submitted: July 25, 2008

If this Mitigation Plan has already been completed:

- Check this box  and
- Provide the Date of Completion of the Mitigation Plan:

### Section A: Compliance Notices

- Section 6.2 of the CMEP<sup>1</sup> sets forth the information that must be included in a Mitigation Plan. The Mitigation Plan must include:
  - (1) The Registered Entity's point of contact for the Mitigation Plan, who shall be a person (i) responsible for filing the Mitigation Plan, (ii) technically knowledgeable regarding the Mitigation Plan, and (iii) authorized and competent to respond to questions regarding the status of the Mitigation Plan. This person may be the Registered Entity's point of contact described in Section 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.
  - (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.

<sup>1</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



- (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: Calpine Energy Services  
Company Address: 717 Texas Ave. Suite 1000, Houston Texas, 77002  
NERC Compliance Registry ID *[if known]*:

#### 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.

Name: Brent Hebert  
Title: Director, Government & Regulatory Affairs, NERC Compliance  
Email: brent.hebert@calpine.com  
Phone: 713-570-4469



**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: TOP -003-1  
*[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	08-054	R.1	06/13/2008

(\*) 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:

The draft Audit Report prepared by SERC stated the following: "Calpine was unable to provide day-ahead schedules, OATI tags or other evidence for the requested weeks of July 4, 2007 or the first week of November 2007". Although Calpine had the requested information, it had technical difficulty with retrieval of the information from it's systems in order to present the level of information required by SERC on the days of the audit. This information has now been provided and this mitigation plan specifically provides the ways in which Calpine is acting to make such information available and retrievable at all times.

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

## Appendix A-4



Calpine provided OATI E-tags as evidence of compliance with Standards INT - 001-2 and VAR - 001. This information is currently in the possession of Andrea Koch.

[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:

Calpine has developed a web-based application, Plant Declaration (aka Plant Dec), which enables a systematic, consistent exchange of data. Functionality includes an email feature to allow users to send the MW data (in excel format) via email to specified recipient(s) in the RC area for system studies. Please see attached project Requirements Document. Each plants summary email will be contained in the 'Generation Desk East' mailbox for NERC auditing purposes. This mailbox will contained all historic summary reports emailed, including date/time and content. The OATI E-tag programs has an archive feature. This feature will be used in future audits for retrieving historical OATI E-Tags Please see attachment OATI.doc and 2006tag.doc tag evidence.

This program will ensure that such information is immediately available and retrievable.

[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:  
.Project completion date is 10/24/2008

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)
Hire a Director, CCO Compliance. The	10/01/2008

# Appendix A-4



<p>director will report to the Corporate Director, Government &amp; Regulatory Affairs and will oversee compliance activities within CCO. The Director, CCO Compliance will establish an effective, efficient, and controlled environment which ensures compliance with all applicable standards and requirement.</p>	
<p>Revise current processes and procedures which will align with the use of the Plant Dec. Portal Application. Procedures will include outage reporting requirements, forms and contacts for each applicable TOP as established by each TOP</p>	<p>10/01/2008</p>
<p>Test and implement the Plant Dec. Portal for use of plant data exchange, both internal to Calpine and external. All external email will be contained in the East Generation mail box for auditing purposes.</p>	<p>10/10/2008</p>
<p>Conduct training for all East Real-Time and Day-Ahead personnel on revised procedures, purpose and use of the Plant Dec. Portal, and requirements. Training will be in the form of hand on for each 24 hour shift</p>	<p>10/24/2008</p>

(\*) 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:

Please see attachment Requirements\_Plant-Dec-East

Please see attachment OATI.doc.

Please see attachment CCOjob.doc.

[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:

To the best of Calpine's knowledge, during the pendency of the mitigation plan, the reliability of the Bulk Power System will not be at a higher risk or be otherwise negatively impacted. At the time of the audit as well as now, Calpine Energy Services must reserve transmission via the OASIS system and create OATI E-tags for the host BA and TOP to approve. Approval of the OATI E-tag schedule must take place by the host BA and TOP before any transaction from a SERC facility is implemented. Calpine believes the risk to the the Bulk Power System was negligible, if any, prior to or at the time of the audit.

As proven by the additional evidence provide to SERC (post audit), Calpine was performing the functions or processes to meet the



requirements of this standard and will continue to meet the requirements during and after the completion of the mitigation plan. The mitigation plan outlined is to ensure that during future audits or requests for information Calpine Energy Services can produce the data in a timely fashion. The Plant Declaration Portal application will ensure a systematic and consistent approach to Calpine's internal and external data exchange and reporting.

[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:

Performance of the Mitigation Plan will enhance the internal process for record-keeping and thus make the relevant information more visible and accessible to all parties along with ensuring a systematic and consistent approach to data exchange and reporting.

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

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Interviewing potential candidates for Director, CCO compliance. This person will reside on the Dispatch Floor and is charged with monitoring and ensuring compliance as the GOP/PSE subject matter expert. The Director, CCO compliance will assist in all compliance efforts including audit support.

[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 Corporate Director, Government & Regulatory Affairs - NERC Compliance of Calpine Corporation.
  - 2. I am qualified to sign this Mitigation Plan on behalf of Calpine Energy Services.
  - 3. I have read and understand Calpine Energy Services 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. Calpine Energy Services 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**

**Brent Hebert**

(Electronic signatures are acceptable; see CMEP)

Name (Print): J. Brent Hebert

Title: Corporate Director, Government & Regulatory Affairs, NERC Compliance

Date: July 25, 2008



**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.

We submitted information to substantiate compliance with these standards but believe we should mitigate to insure that we have sufficient proof of compliance for future audits.

[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 an 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: [Calpine Energy Services](#)

Date of Certification: [10/30/2008](#)

Name of Standard and the Requirement(s) of mitigated violation(s): [TOP-003-0/R1](#)

SERC Tracking Number (contact SERC if not known): 08-054

NERC Violation ID Number (if assigned):

**Date of completion of the Mitigation Plan:** 10/24/08

Summary of all actions described in Part D of the relevant mitigation plan:

Description of the information provided to SERC for their evaluation:

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: [J. Brent Hebert](#)

Title: [Corporate Director, Government & Regulatory Affairs and NERC Compliance](#)

Entity: [Calpine Energy Services](#)

Email: [Brent.hebert@calpine.com](mailto:Brent.hebert@calpine.com)

Phone: 713-570-4469

DesignatedSignature    Date  10/24/08

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

**(Form Revised August 13, 2008)**



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

Registered Entity: Calpine Energy Services  
SERC Tracking ID: 08-054  
NERC Violation No: SERC200800139  
NERC Mitigation Plan ID: MIT-07-1065  
Standard: TOP-003-0  
Requirement(s): 1

### Violation Summary:

The Entity was found in violation of TOP-003-0, R1 for its failure to provide evidence, at its duly-noticed scheduled compliance audit, because at the time of the audit, CES was unable to produce evidence to show that it was providing outage information daily to its Transmission Operator. The Entity failed to properly prepare for the audit so as to be able to provide evidence upon request from SERC. In as much as the Entity was subsequently able to produce evidence of compliance with the requirement, the violation, while not excused, is considered a documentation-only issue and a lower VSL is applied.

### Mitigation Plan Summary:

Calpine Energy Services Mitigation Plan to address the referenced violation was originally submitted on July 25, 2008 and revised on August 13, 2008 to provide additional details of and clarification for the included milestones and was accepted by SERC on October 2, 2008 and approved by NERC on October 20, 2008. The Mitigation Plan is identified as MIT-07-1065 and was submitted as non-public information to FERC on October 20, 2008 in accordance with FERC orders.

The mitigation plan covers actions to prevent recurrence and improve the Entity's ability to provide documentation upon request by the Region. Entity will revise current processes and procedures which will align with the use of the Entity's "Plant Declaration Portal Application." Procedures will include outage reporting requirements, forms and contacts for each applicable TOP as established by each TOP. Entity will test and implement the Plant Declaration Portal for use of plant data exchange, both internal to Entity and external. All Entity external emails will be contained in a specified mail box for auditing purposes. Entity will conduct training for all Real-Time and Day-Ahead personnel on revised procedures, purpose and use of the Plant Declaration Portal, and requirements. The mitigation plan will be completed by 10/24/2008.

### 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.

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

Calpine Energy Services certified on October 30, 2008 that the subject Mitigation Plan was completed on October 24, 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:**

Calpine Energy Services submitted and SERC Staff reviewed the following evidence in support of its certification that its Mitigation Plan was completed in accordance with its terms:

OATI tags for all eight plants covering multiple days and months to verify unique tag, date and time of creation, status, start and stop time of exchange, transmission system that transaction is taking place

Independent Power Producer Schedule confirming notification status date and time for information required for system studies, such as critical facility status, Load, generation, operating reserve projections, and known Interchange Transactions.

Business card of and spoke with the new director responsible for compliance with the NERC Reliability Standards within the company’s compliance organization

Emails confirming outage scheduling coordination with appropriate entities

Requirements\_Plant-Dec-East.doc – This is a requirements document for the Plant Declaration Application that CES implemented to help prevent recurrence. The application allows CES declare” or formally communicate plant generation capabilities, thermal performance, and equipment availability to the trading and dispatch personnel. The tool also gives the Trading Desk the ability to email Balancing Authorities and Transmission Service Providers individual plant’s capabilities. This function also has historical record keeping ability and allows Calpine to be compliant with NERC





Standards TOP-002 and TOP-003. The tool also copies each plants emails to the "Generation Desk East" mailbox for historical purposes and easy retrieval.

Plant Declaration---Commercial Operations Process document and attestation to training on Plant Declaration Process for appropriate personnel

**Conclusion:**

On December 22, 2008 SERC Reliability Corporation Compliance Staff ("SERC Staff") completed its review of the evidence submitted by Calpine Energy Services 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 Calpine Energy Services 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,**

Andrea Koch, Compliance Engineer  
Steve Gibe, Senior Compliance Auditor



## Mitigation Plan Submittal Form

Date this Mitigation Plan is being submitted: July 25, 2008

If this Mitigation Plan has already been completed:

- Check this box  and
- Provide the Date of Completion of the Mitigation Plan:

### **Section A: Compliance Notices**

- Section 6.2 of the CMEP<sup>1</sup> sets forth the information that must be included in a Mitigation Plan. The Mitigation Plan must include:
  - (1) The Registered Entity's point of contact for the Mitigation Plan, who shall be a person (i) responsible for filing the Mitigation Plan, (ii) technically knowledgeable regarding the Mitigation Plan, and (iii) authorized and competent to respond to questions regarding the status of the Mitigation Plan. This person may be the Registered Entity's point of contact described in Section 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.
  - (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.

---

<sup>1</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.



- (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: Calpine Energy Services  
Company Address: 717 Texas Ave. Suite 1000, Houston Texas, 77002  
NERC Compliance Registry ID *[if known]*:

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.

Name: Brent Hebert  
Title: Director, Government & Regulatory Affairs, NERC Compliance  
Email: brent.hebert@calpine.com  
Phone: 713-570-4469



**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: TOP -002-1  
*[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	08-055	R.3	06/13/2008

(\*) 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:

The draft Audit Report prepared by SERC stated the following: "Calpine was unable to provide day-ahead schedules, OATI tags or other evidence for the requested weeks of July 4, 2007 or the first week of November 2007". Although Calpine had the requested information, it had technical difficulty with retrieval of the information from it's systems in order to present the level of information required by SERC on the days of the audit. This information has now been provided and this mitigation plan specifically provides the ways in which Calpine is acting to make such information available and retrievable at all times.

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

## Appendix A-7



Calpine provided OATI E-tags as evidence of compliance with Standards INT - 001-2 and VAR – 001. This information is currently in the possession of Andrea Koch.  
[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:

Calpine has developed a web-based application, Plant Declaration (aka Plant Dec), which enables a systematic, consistent exchange of data. Functionality includes an email feature to allow users to send the MW data (in excel format) via email to specified recipient(s) in the RC area for system studies. Please see attached project Requirements Document. Each plants summary email will be contained in the 'Generation Desk East' mailbox for NERC auditing purposes. This mailbox will contained all historic summary reports emailed, including date/time and content. The OATI E-tag programs has an archive feature. This feature will be used in future audits for retrieving historical OATI E-Tags Please see attachment OATI.doc and 2006tag.doc tag evidence.

This program will ensure that such information is immediately available and retrievable.

[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:  
.Project completion date is 10/24/2008

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)
Hire a Director, CCO Compliance. The	10/01/2008

# Appendix A-7



<p>director will report to the Corporate Director, Government &amp; Regulatory Affairs and will oversee compliance activities within CCO. The Director, CCO Compliance will establish an effective, efficient, and controlled environment which ensures compliance with all applicable standards and requirement.</p>	
<p>Revise current processes and procedures which will align with the use of the Plant Dec. Portal Application. Procedures will include outage reporting requirements, forms and contacts for each applicable TOP as established by each TOP</p>	<p>10/01/2008</p>
<p>Test and implement the Plant Dec. Portal for use of plant data exchange, both internal to Calpine and external. All external email will be contained in the East Generation mail box for auditing purposes.</p>	<p>10/10/2008</p>
<p>Conduct training for all East Real-Time and Day-Ahead personnel on revised procedures, purpose and use of the Plant Dec. Portal, and requirements. Training will be in the form of hand on for each 24 hour shift</p>	<p>10/24/2008</p>

(\* 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:

Please see attachment Requirements\_Plant-Dec-East

Please see attachment OATI.doc.

Please see attachment CCOjob.doc.

[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:

To the best of Calpine's knowledge, during the pendency of the mitigation plan, the reliability of the Bulk Power System will not be at a higher risk or be otherwise negatively impacted. At the time of the audit as well as now, Calpine Energy Services must reserve transmission via the OASIS system and create OATI E-tags for the host BA and TOP to approve. Approval of the OATI E-tag schedule must take place by the host BA and TOP before any transaction from a SERC facility is implemented. Calpine believes the risk to the the Bulk Power System was negligible, if any, prior to or at the time of the audit.

As proven by the additional evidence provide to SERC (post audit), Calpine was performing the functions or processes to meet the





requirements of this standard and will continue to meet the requirements during and after the completion of the mitigation plan. The mitigation plan outlined is to ensure that during future audits or requests for information Calpine Energy Services can produce the data in a timely fashion. The Plant Declaration Portal application will ensure a systematic and consistent approach to Calpine's internal and external data exchange and reporting.

[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:

Performance of the Mitigation Plan will enhance the internal process for record-keeping and thus make the relevant information more visible and accessible to all parties along with ensuring a systematic and consistent approach to data exchange and reporting.

[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:

Interviewing potential candidates for Director, CCO compliance. This person will reside on the Dispatch Floor and is charged with monitoring and ensuring compliance as the GOP/PSE subject matter expert. The Director, CCO compliance will assist in all compliance efforts including audit support.

[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 Corporate Director, Government & Regulatory Affairs - NERC Compliance of Calpine Corporation.
  - 2. I am qualified to sign this Mitigation Plan on behalf of Calpine Energy Services.
  - 3. I have read and understand Calpine Energy Services 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. Calpine Energy Services 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**

**Brent Hebert**

(Electronic signatures are acceptable; see CMEP)

Name (Print): J. Brent Hebert

Title: Corporate Director, Government & Regulatory Affairs, NERC Compliance

Date: July 25, 2008



**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.

We submitted information to substantiate compliance with these standards but believe we should mitigate to insure that we have sufficient proof of compliance for future audits.

[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 an 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: [Calpine Energy Services](#)

Date of Certification: [10/30/2008](#)

Name of Standard and the Requirement(s) of mitigated violation(s): [TOP-002-2/R3](#)

SERC Tracking Number (contact SERC if not known): 08-055

NERC Violation ID Number (if assigned):

**Date of completion of the Mitigation Plan:** 10/24/08

Summary of all actions described in Part D of the relevant mitigation plan:

Description of the information provided to SERC for their evaluation:

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: [J. Brent Hebert](#)

Title: [Corporate Director, Government & Regulatory Affairs and NERC Compliance](#)

Entity: [Calpine Energy Services](#)

Email: [Brent.hebert@calpine.com](mailto:Brent.hebert@calpine.com)

Phone: 713-570-4469

DesignatedSignature     *J. Brent Hebert*     Date     10/24/08    

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

**(Form Revised August 13, 2008)**



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

Registered Entity: Calpine Energy Services  
SERC Tracking ID: 08-055  
NERC Violation No: SERC200800140  
NERC Mitigation Plan ID: MIT-07-1066  
Standard: TOP-002-2  
Requirement(s): 3

### Violation Summary:

The Entity was found in violation of TOP-002-2, R3 for its failure to provide evidence, at its duly-noticed scheduled compliance audit, because at the time of the audit, CES was unable to produce evidence to show that it was coordinating its current-day, next-day and seasonal operation with its Host Balancing Authority and Transmission Service Provider. The Entity failed to properly prepare for the audit so as to be able to provide evidence upon request from SERC. In as much as the Entity was subsequently able to produce evidence of compliance with the requirement, the violation, while not excused, is considered a documentation-only issue and a lower VSL is applied.

### Mitigation Plan Summary:

Calpine Energy Services Mitigation Plan to address the referenced violation was originally submitted on July 25, 2008 and revised on August 13, 2008 to provide additional details of and clarification for the included milestones and was accepted by SERC on October 2, 2008 and approved by NERC on October 20, 2008. The Mitigation Plan is identified as MIT-07-1066 and was submitted as non-public information to FERC on October 20, 2008 in accordance with FERC orders.

The mitigation plan covers actions to prevent recurrence and improve the Entity's ability to provide documentation upon request by the Region. Entity will revise current processes and procedures which will align with the use of the Entity's "Plant Declaration Portal Application." Procedures will include outage reporting requirements, forms and contacts for each applicable TOP as established by each TOP. Entity will test and implement the Plant Declaration Portal for use of plant data exchange, both internal to Entity and external. All Entity external emails will be contained in a specified mail box for auditing purposes. Entity will conduct training for all Real-Time and Day-Ahead personnel on revised procedures, purpose and use of the Plant Declaration Portal, and requirements. The mitigation plan will be completed by 10/24/2008.

### 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.

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

Calpine Energy Services certified on October 30, 2008 that the subject Mitigation Plan was completed on October 24, 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:**

Calpine Energy Services submitted and SERC Staff reviewed the following evidence in support of its certification that its Mitigation Plan was completed in accordance with its terms:

OATI tags for all eight plants covering multiple days and months to verify unique tag, date and time of creation, status, start and stop time of exchange, transmission system that transaction is taking place

Independent Power Producer Schedule confirming notification status date and time for information required for system studies, such as critical facility status, Load, generation, operating reserve projections, and known Interchange Transactions.

Business card of and spoke with the new director responsible for compliance with the NERC Reliability Standards within the company’s compliance organization

Emails confirming outage scheduling coordination with appropriate entities

Requirements\_Plant-Dec-East.doc – This is a requirements document for the Plant Declaration Application that CES implemented to help prevent recurrence. The application allows CES declare” or formally communicate plant generation capabilities, thermal performance, and equipment availability to the trading and dispatch personnel. The tool also gives the Trading Desk the ability to email Balancing Authorities and Transmission Service Providers individual plant’s capabilities. This function also has historical record keeping ability and allows Calpine to be compliant with NERC



Standards TOP-002 and TOP-003. The tool also copies each plants emails to the "Generation Desk East" mailbox for historical purposes and easy retrieval.

Plant Declaration---Commercial Operations Process document and attestation to training on Plant Declaration Process for appropriate personnel

**Conclusion:**

On December 22, 2008 SERC Reliability Corporation Compliance Staff ("SERC Staff") completed its review of the evidence submitted by Calpine Energy Services 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 Calpine Energy Services 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,**

Andrea Koch, Compliance Engineer  
Steve Gibe, Senior Compliance Auditor





## Mitigation Plan Submittal Form

Date this Mitigation Plan is being submitted: July 25, 2008

If this Mitigation Plan has already been completed:

- Check this box  and
- Provide the Date of Completion of the Mitigation Plan:

### Section A: Compliance Notices

- Section 6.2 of the CMEP<sup>1</sup> sets forth the information that must be included in a Mitigation Plan. The Mitigation Plan must include:
  - (1) The Registered Entity's point of contact for the Mitigation Plan, who shall be a person (i) responsible for filing the Mitigation Plan, (ii) technically knowledgeable regarding the Mitigation Plan, and (iii) authorized and competent to respond to questions regarding the status of the Mitigation Plan. This person may be the Registered Entity's point of contact described in Section 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.
  - (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.

---

<sup>1</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.



- (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: Calpine Energy Services  
Company Address: 717 Texas Ave. Suite 1000, Houston Texas, 77002  
NERC Compliance Registry ID *[if known]*:

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.

Name: Brent Hebert  
Title: Director, Government & Regulatory Affairs, NERC Compliance  
Email: brent.hebert@calpine.com  
Phone: 713-570-4469



**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: IRO-004-1  
*[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	08-056	R.4	06/13/2008

(\*) 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:

The draft Audit Report prepared by SERC stated the following: "Calpine was unable to provide day-ahead schedules, OATI tags or other evidence for the requested weeks of July 4, 2007 or the first week of November 2007". Although Calpine had the requested information, it had technical difficulty with retrieval of the information from it's systems in order to present the level of information required by SERC on the days of the audit. This information has now been provided and this mitigation plan specifically provides the ways in which Calpine is acting to make such information available and retrievable at all times.

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



Calpine provided OATI E-tags as evidence of compliance with Standards INT - 001-2 and VAR – 001. This information is currently in the possession of Andrea Koch.  
[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:

Calpine has developed a web-based application, Plant Declaration (aka Plant Dec), which enables a systematic, consistent exchange of data. Functionality includes an email feature to allow users to send the MW data (in excel format) via email to specified recipient(s) in the RC area for system studies. Please see attached project Requirements Document. Each plants summary email will be contained in the 'Generation Desk East' mailbox for NERC auditing purposes. This mailbox will contain all historic summary reports emailed, including date/time and content. The OATI E-tag programs has an archive feature. This feature will be used in future audits for retrieving historical OATI E-Tags. Please see attachment OATI.doc and 2006tag.doc tag evidence. This program will ensure that such information is immediately available and retrievable.

[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:  
.Project completion date is 10/10/2008

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)
Hire a Director, CCO Compliance. The	10/01/2008

# Appendix A-10



<p>director will report to the Corporate Director, Government &amp; Regulatory Affairs and will oversee compliance activities within CCO. The Director, CCO Compliance will establish an effective, efficient, and controlled environment which ensures compliance with all applicable standards and requirement.</p>	
<p>Revise current processes and procedures which will align with the use of the Plant Dec. Portal Application. Procedures will include outage reporting requirements, forms and contacts for each applicable TOP as established by each TOP</p>	<p>10/01/2008</p>
<p>Test and implement the Plant Dec. Portal for use of plant data exchange, both internal to Calpine and external. All external email will be contained in the East Generation mail box for auditing purposes.</p>	<p>10/10/2008</p>
<p>Conduct training for all East Real-Time and Day-Ahead personnel on revised procedures, purpose and use of the Plant Dec. Portal, and requirements. Training will be in the form of hand on for each 24 hour shift</p>	<p>10/24/2008</p>

(\*) 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:

Please see attachment Requirements\_Plant-Dec-East

Please see attachment OATI.doc.

Please see attachment CCOjob.doc.

[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:

To the best of Calpine's knowledge, during the pendency of the mitigation plan, the reliability of the Bulk Power System will not be at a higher risk or be otherwise negatively impacted. At the time of the audit as well as now, Calpine Energy Services must reserve transmission via the OASIS system and create OATI E-tags for the host BA and TOP to approve. Approval of the OATI E-tag schedule must take place by the host BA and TOP before any transaction from a SERC facility is implemented. Calpine believes the risk to the the Bulk Power System was negligible, if any, prior to or at the time of the audit.

As proven by the additional evidence provide to SERC (post audit), Calpine was performing the functions or processes to meet the



requirements of this standard and will continue to meet the requirements during and after the completion of the mitigation plan. The mitigation plan outlined is to ensure that during future audits or requests for information Calpine Energy Services can produce the data in a timely fashion. The Plant Declaration Portal application will ensure a systematic and consistent approach to Calpine's internal and external data exchange and reporting.

[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:

Performance of the Mitigation Plan will enhance the internal process for record-keeping and thus make the relevant information more visible and accessible to all parties along with ensuring a systematic and consistent approach to data exchange and reporting.

[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:

Interviewing potential candidates for Director, CCO compliance. This person will reside on the Dispatch Floor and is charged with monitoring and ensuring compliance as the GOP/PSE subject matter expert. The Director, CCO compliance will assist in all compliance efforts including audit support.

[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 Corporate Director, Government & Regulatory Affairs - NERC Compliance of Calpine Corporation.
  - 2. I am qualified to sign this Mitigation Plan on behalf of Calpine Energy Services.
  - 3. I have read and understand Calpine Energy Services 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. Calpine Energy Services 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**

**Brent Hebert**

(Electronic signatures are acceptable; see CMEP)

Name (Print): J. Brent Hebert

Title: Corporate Director, Government & Regulatory Affairs, NERC Compliance

Date: July 25, 2008



## **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.

We submitted information to substantiate compliance with these standards but believe we should mitigate to insure that we have sufficient proof of compliance for future audits.

[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 an 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: [Calpine Energy Services](#)

Date of Certification: [10/30/2008](#)

Name of Standard and the Requirement(s) of mitigated violation(s): [IRO-004-1/R4](#)

SERC Tracking Number (contact SERC if not known): 08-056

NERC Violation ID Number (if assigned):

**Date of completion of the Mitigation Plan:** 10/24/08

Summary of all actions described in Part D of the relevant mitigation plan:

Description of the information provided to SERC for their evaluation:

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: [J. Brent Hebert](#)

Title: [Corporate Director, Government & Regulatory Affairs and NERC Compliance](#)

Entity: [Calpine Energy Services](#)

Email: [Brent.hebert@calpine.com](mailto:Brent.hebert@calpine.com)

Phone: 713-570-4469

DesignatedSignature      Date     10/24/08    

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

**(Form Revised August 13, 2008)**



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

Registered Entity: Calpine Energy Services  
SERC Tracking ID: 08-056  
NERC Violation No: SERC200800141  
NERC Mitigation Plan ID: MIT-07-1067  
Standard: IRO-004-1  
Requirement(s): 4

### Violation Summary:

The Entity was found in violation of IRO-004-1, R4 for its failure to provide evidence, at its duly-noticed scheduled compliance audit, because CES was unable to produce evidence to show that it was providing its Reliability Coordinator information required for system studies. The Entity failed to properly prepare for the audit so as to be able to provide evidence upon request from SERC. In as much as the Entity was subsequently able to produce evidence of compliance with the requirement, the violation, while not excused, is considered a documentation-only issue and a lower VSL is applied.

### Mitigation Plan Summary:

Calpine Energy Services Mitigation Plan to address the referenced violation was originally submitted on July 25, 2008 and revised on August 13, 2008 to provide additional details of and clarification for the included milestones and was accepted by SERC on October 2, 2008 and approved by NERC on October 20, 2008. The Mitigation Plan is identified as MIT-07-1067 and was submitted as non-public information to FERC on October 20, 2008 in accordance with FERC orders.

The mitigation plan covers actions to prevent recurrence and improve the Entity's ability to provide documentation upon request by the Region. Entity will revise current processes and procedures which will align with the use of the Entity's "Plant Declaration Portal Application." Procedures will include outage reporting requirements, forms and contacts for each applicable TOP as established by each TOP. Entity will test and implement the Plant Declaration Portal for use of plant data exchange, both internal to Entity and external. All Entity external emails will be contained in a specified mail box for auditing purposes. Entity will conduct training for all Real-Time and Day-Ahead personnel on revised procedures, purpose and use of the Plant Declaration Portal, and requirements. The mitigation plan will be completed by 10/24/2008.

### 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.

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

Calpine Energy Services certified on October 30, 2008 that the subject Mitigation Plan was completed on October 24, 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:**

Calpine Energy Services submitted and SERC Staff reviewed the following evidence in support of its certification that its Mitigation Plan was completed in accordance with its terms:

OATI tags for all eight plants covering multiple days and months to verify unique tag, date and time of creation, status, start and stop time of exchange, transmission system that transaction is taking place

Independent Power Producer Schedule confirming notification status date and time for information required for system studies, such as critical facility status, Load, generation, operating reserve projections, and known Interchange Transactions.

Business card of and spoke with the new director responsible for compliance with the NERC Reliability Standards within the company’s compliance organization

Emails confirming outage scheduling coordination with appropriate entities

Requirements\_Plant-Dec-East.doc – This is a requirements document for the Plant Declaration Application that CES implemented to help prevent recurrence. The application allows CES declare” or formally communicate plant generation capabilities, thermal performance, and equipment availability to the trading and dispatch personnel. The tool also gives the Trading Desk the ability to email Balancing Authorities and Transmission Service Providers individual plant’s capabilities. This function also has historical record keeping ability and allows Calpine to be compliant with NERC



Standards TOP-002 and TOP-003. The tool also copies each plants emails to the "Generation Desk East" mailbox for historical purposes and easy retrieval.

Plant Declaration---Commercial Operations Process document and attestation to training on Plant Declaration Process for appropriate personnel

**Conclusion:**

On December 22, 2008 SERC Reliability Corporation Compliance Staff ("SERC Staff") completed its review of the evidence submitted by Calpine Energy Services 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 Calpine Energy Services 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,**

Andrea Koch, Compliance Engineer  
Steve Gibe, Senior Compliance Auditor

**Attachment c**

**Notice of Filing**



UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Calpine Energy Services

Docket

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

NOTICE OF FILING  
February 1, 2010

Take notice that on February 1, 2010, the North American Electric Reliability Corporation (NERC) filed a Notice of Penalty regarding Calpine Energy Services 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