



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: Abbreviated Notice of Penalty
Montana-Dakota Utilities Company, FERC Docket No. NP10-__-000**

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Abbreviated Notice of Penalty (Abbreviated NOP) regarding the Registered Entity listed in Attachment A, 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)).

Taking into consideration the Commission's direction in Order No. 693, the NERC Sanction Guidelines and the Commission's July 3, 2008 and October 26, 2009 Guidance Orders,¹ the NERC BOTCC reviewed the findings and proposed penalty or sanction and approved the Abbreviated NOP and the attachments thereto on January 15, 2010, for filing with the Commission. Pursuant to Order No. 693, the penalty will be effective upon expiration of the 30 day period following the filing of this Abbreviated NOP with the Commission, or, if the Commission decides to review the penalty, upon final determination by the Commission.

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 and material:

- a) Disposition of Alleged/Confirmed Violation, included as Attachment A; and
- b) MDU Self Report, dated September 18, 2009, included as Attachment B; and
- c) MDU Mitigation Plan, submitted on October 20, 2009, included as Attachment C; and

¹ *North American Electric Reliability Corporation*, "Guidance Order on Reliability Notices of Penalty," 124 FERC ¶ 61,015 (2008); *North American Electric Reliability Corporation*, "Guidance Order on Reliability Notices of Penalty," 129 FERC ¶ 61,069 (2009).

- d) MDU Certification of Mitigation Complete, dated October 28, 2009, included as Attachment D; and
- e) MDU Response to Notice of Alleged Violation and Proposed Penalty or Sanction, dated November 3, 2009, included as Attachment E.

A Form of Notice Suitable for Publication²

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

² 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, New Jersey 08540-5721 (609)452-8060 (609) 452-9550 – facsimile gerry.cauley@nerc.net david.cook@nerc.net</p> <p>For MDU:</p> <p>Darcy Neigum* Montana-Dakota Utilities 400 North Fourth Street Bismarck, ND 58501 Phone: 701-222-7757 Email: darcy.neigum@mdu.com</p> <p>Hoa Nguyen* Resource Planning Coordinator Montana-Dakota Utilities 400 North Fourth Street Bismarck, ND 58501 Phone: 701-222-7656 Email: hoa.nguyen@mdu.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>For MRO:</p> <p>Daniel P. Skaar* President Midwest Reliability Organization 2774 Cleveland Avenue North Roseville, MN 55113 Phone: 651-855-1731 Email: dp.skaar@midwestreliability.org</p> <p>Sara E. Patrick* Director of Regulatory Affairs and Enforcement Midwest Reliability Organization 2774 Cleveland Avenue North Roseville, MN 55113 Phone: 651-855-1708 Email: se.patrick@midwestreliability.org</p>
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Conclusion

Accordingly, NERC respectfully requests that the Commission accept this Abbreviated NOP as compliant with its rules, regulations and orders.

Respectfully submitted,

Gerald W. Cauley
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David N. Cook
Vice President and General Counsel
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cc: Montana Dakota-Utilities Company
Midwest Reliability Organization

Attachments

Attachment a

Disposition of Alleged/Confirmed Violation



DISPOSITION OF ALLEGED/CONFIRMED VIOLATION

Dated: December 23, 2009

NERC TRACKING NO. MRO200900115	REGIONAL ENTITY TRACKING NO. MRO2009091809_MDU_PRC-005-1_R2	NOC#
REGISTERED ENTITY Montana Dakota-Utilities Company	NERC REGISTRY ID. NCR01015	

REGISTRATION INFORMATION

ENTITY IS REGISTERED FOR THE FOLLOWING FUNCTIONS:

BA	<i>DP</i>	<i>GO</i>	GOP	IA	LSE	PA	PSE	RC	RP	RS <i>G</i>	<i>TO</i>	TOP	TP	TSP
	X	X	X		X		X		X		X	X ¹		

*ALLEGED/CONFIRMED VIOLATION APPLIES TO ITALICIZED FUNCTIONS

VIOLATION INFORMATION

RELIABILITY STANDARD	REQUIREMENT(S)	SUB-REQUIREMENT(S)	VRF(S)	VSL(S)
PRC-005-1	2	2.1 and 2.2	High	Lower

TEXT OF RELIABILITY STANDARD AND REQUIREMENT(S)/SUB-REQUIREMENT(S)

Standard: To ensure all transmission and generation Protection Systems affecting the reliability of the Bulk Power System (BPS) are maintained and tested.

Requirement: Each Transmission Owner and any Distribution Provider that owns a transmission Protection System and each Generator Owner that owns a generation Protection System shall provide documentation of its Protection System maintenance and testing program and the implementation of that program to its Regional Entity on request (within 30 calendar days). The documentation of the program implementation shall include:

Sub-Requirements:

¹ Montana Dakota-Utilities Company was included on the NERC Compliance Registry for all the above mentioned functions on May 30, 2007, except for the TOP function which they were registered for on January 30, 2009.





- R2.1. Evidence Protection System devices were maintained and tested within the defined intervals.
- R2.2. Date each Protection System device was last tested/maintained.

ALLEGED/CONFIRMED VIOLATION DESCRIPTION

On September 18, 2009, MDU self reported a violation of Reliability Standard PRC-005-1, R2 to MRO. MDU reported that it had not complied with the requirement in its Transmission and Generation Protection System Maintenance and Testing program to conduct hydrometer readings on substation storage batteries every three months. MDU maintains 46 substations with storage batteries subject to PRC-005-1 R2. The 46 substations of batteries supply DC source to transmission protection devices at 115 kV and above. Of these substations, eight (8) are distribution substations with 115 kV high-side, three (3) are fed by a radial 115 kV line, seven (7) are owned by other entities but maintained by MDU under contracts, and the remaining 28 are transmission substations owned by MDU.

MDU was not able to provide evidence that the hydrometer readings were performed every three months according to its program document. MDU staff utilized a form to complete the hydrometer readings on substation storage batteries and the form indicated that the readings were to be performed every six months. MDU has evidence to demonstrate that it has been performing the required hydrometer readings every six months, rather than at the three month interval required in its program document for 36 of its 46 substations. MDU does not have evidence that the hydrometer readings were conducted at 10 of its 46 substations. Additionally, MDU reported that it conducted monthly voltage readings for each cell of the batteries at each station. According to MDU, any unacceptable variation in voltage of these readings would have alerted MDU staff to any sign of battery cell weakness or failure.

RELIABILITY IMPACT STATEMENT- POTENTIAL AND ACTUAL
(IF THE VIOLATION POSED A SERIOUS OR SUBSTANTIAL RISK, THE ABBREVIATED
NOP FORM MAY NOT BE USED.)

MRO determined that this violation did not pose a serious or significant risk to the bulk power system for the following reasons. Although the required three month hydrometer readings were not performed, MDU did perform the hydrometer readings on the substation storage batteries every six months for 36 of its 46 substations. Additionally, MDU performed monthly voltage readings on each cell of the batteries at each of its 46 substations. Through the monthly voltage readings, MDU staff would have been alerted to any sign of battery cell weakness or failure.

IS THERE A SETTLEMENT AGREEMENT YES NO

WITH RESPECT TO THE ALLEGED/CONFIRMED VIOLATION, REGISTERED ENTITY

NEITHER ADMITS NOR DENIES IT (SETTLEMENT ONLY)	YES	<input type="checkbox"/>
ADMITS TO IT	YES	<input checked="" type="checkbox"/>
DOES NOT CONTEST IT (INCLUDING WITHIN 30 DAYS)	YES	<input type="checkbox"/>





WITH RESPECT TO THE PROPOSED PENALTY OR SANCTION, REGISTERED ENTITY

ACCEPTS IT YES
DOES NOT CONTEST IT (INCLUDING WITHIN 30 DAYS) YES

DISCOVERY INFORMATION

METHOD OF DISCOVERY

SELF-REPORT
SELF-CERTIFICATION
COMPLIANCE AUDIT
COMPLIANCE VIOLATION INVESTIGATION
SPOT CHECK
COMPLAINT
PERIODIC DATA SUBMITTAL
EXCEPTION REPORTING

DURATION DATE(S) **06/18/07 until 10/26/09**

DATE DISCOVERED BY OR REPORTED TO REGIONAL ENTITY **09/18/09**

IS THE ALLEGED/CONFIRMED VIOLATION STILL OCCURRING
YES NO

EXPLAIN

MDU completed its Mitigation Plan and documented the hydrometer readings were completed according to the MDU Protection System Maintenance and Testing Program. MDU certified mitigation completion as of 10/26/09. MRO verified that MDU had completed the required mitigation as of 10/26/09.

REMEDIAL ACTION DIRECTIVE ISSUED YES NO
PRE TO POST JUNE 18, 2007 VIOLATION YES NO

MITIGATION INFORMATION

MITIGATION PLAN NO. **MIT-09-2058**

DATE SUBMITTED TO REGIONAL ENTITY **10/20/09**
DATE ACCEPTED BY REGIONAL ENTITY **10/20/09**
DATE APPROVED BY NERC **10/26/09**
DATE PROVIDED TO FERC **10/26/09**
IDENTIFY AND EXPLAIN VERSIONS THAT WERE REJECTED
N/A





MITIGATION PLAN COMPLETED YES NO

EXPECTED COMPLETION DATE **10/30/09**
EXTENSIONS GRANTED **N/A**
ACTUAL COMPLETION DATE **10/26/09**

DATE CERTIFIED AS COMPLETE BY REGISTERED ENTITY LETTER DATE
10/28/09 as of 10/26/2009

DATE VERIFIED AS COMPLETE BY REGIONAL ENTITY

MRO verified on 11/07/09 that MDU mitigation was complete as of 10/26/09.

ACTIONS TAKEN TO MITIGATE THE ISSUE AND PREVENT RECURRENCE

MDU's Mitigation Plan to address the referenced violation was accepted by MRO on 10/20/09 and approved by NERC on 10/26/09. The Mitigation Plan for the violation listed is designated as MIT-09-2058 and was submitted as non-public information to FERC on 10/26/09 in accordance with FERC orders.

MDU certified on 10/28/09 that its Mitigation Plan was completed as of 10/26/09. MDU provided a letter dated 8/20/09, sent to all MDU substations stating the importance of performing hydrometer readings according to the defined interval; a copy of the MDU Protection System Maintenance and Testing Program that was revised on 9/21/09; a spreadsheet of hydrometer reading dates and locations; and battery test results from the 10 substations with missing hydrometer readings.

MRO reviewed the evidence and documentation submitted by MDU and on 11/7/09 verified completion of the Mitigation Plan as of 10/26/09. MRO determined that MDU completed the required hydrometer readings for each of its 46 battery substations and provided evidence demonstrating the last hydrometer reading date and that the hydrometer readings are being conducted according to the revised interval. MDU has now revised the interval and its basis in its Protection System Maintenance and Testing Program, based on its review of the IEEE Standard 450-2002 related to battery maintenance recommendations. IEEE recommends that specific gravity, measured through hydrometer readings, be taken on each battery cell once a year. MDU has determined to perform specific gravity maintenance and testing on a six month interval with a one month window on either side, i.e. five to seven month interval. MDU explained that taking a full set of hydrometer readings every three months may be excessive due to the time involved to take the readings, the risk of spilled battery acid that may result in damage to cell connections, and concerns for maintenance personnel safety. MRO verified that MDU had completed the required hydrometer readings according to the defined interval as noted in its revised procedure by 10/26/09.





LIST OF EVIDENCE REVIEWED BY REGIONAL ENTITY TO EVALUATE
COMPLETION OF MITIGATION PLAN OR MILESTONES (FOR CASES IN WHICH
MITIGATION IS NOT YET COMPLETED)

1. **August 20, 2009 letter from MDU's Electric Transmission Engineering Manger to MDU substations stating the importance of performing hydrometer readings according to the defined interval.**
2. **MDU Protection System Maintenance and Testing Program, revised 9/21/09 to include a six month interval with a one month window on either side, i.e. five to seven month interval.**
3. **Spreadsheet of hydrometer reading dates and locations for all substations.**
4. **Battery test results from the 10 substations with missing hydrometer readings.**

PENALTY INFORMATION

PROPOSED PENALTY OR SANCTION
\$4,000

MDU shall pay a monetary penalty of \$4,000 to MRO, via wire transfer or check to an MRO account that will be outlined in an invoice sent to MDU within twenty days after the Agreement is either approved by the Commission or is rendered effective by operation of law. Payment of this invoice shall be made within twenty days after the receipt of the invoice, and MRO shall notify NERC if the payment is not received.

Failure to make a timely penalty payment shall be deemed to be either the same alleged violation and/or additional violation and may subject MDU to new or additional enforcement, penalty or sanction actions in accordance with the NERC Rules of Procedure. MDU shall retain all rights to defend against such enforcement actions in accordance with NERC Rules of Procedure, Commission regulations and federal law.

If MDU does not make the monetary penalty payment above at the times agreed by the parties, interest payable to MRO will begin to accrue pursuant to the Commission's regulations at 18 C.F.R. § 35.19(a)(2)(iii) from the date that payment is due, in addition to the penalty specified above.

ADDITIONAL SUPPORT FOR PROPOSED PENALTY OR SANCTION

A violation of Reliability Standard PRC-005-1, Requirement 2 has a "High" Violation Risk Factor (VRF), and MRO assessed the violation of Reliability Standard PRC-005-1, Requirement 2 to be a "Lower" Violation Severity Level (VSL). MRO determined that this violation did not pose a serious or significant risk to the bulk power system for the following reasons. Although the required three month hydrometer readings were not performed, MDU did perform the hydrometer readings on the substation storage batteries every six months for 36 of its 46 substations. Additionally, MDU performed monthly voltage readings on each cell of the batteries at each of its 46 substations.

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Through the monthly voltage readings, MDU staff would have been alerted to any sign of battery cell weakness or failure. According to the Base Penalty Table of the NERC Sanction Guidelines the ERO base penalty range for a "High" VRF violation with a "Lower" VSL is \$4,000 to \$125,000. This violation began on 6/18/07, the date the Standard became mandatory and enforceable and continued until 10/26/09 when the required hydrometer readings were conducted according to MDU's Protection System Maintenance and Testing Program.

(1) THE RELATION OF THE PENALTY TO THE SERIOUSNESS OF THE VIOLATION

MRO has determined that a penalty of \$4,000 bears a reasonable relationship to the severity of the violation and considers the actions taken by MDU to mitigate the violation. This determination is based on the following facts:

- MDU self reported the alleged violation.
- There is no evidence that MDU made any attempt to conceal the alleged violation.
- MDU demonstrated its commitment to reliability through the strength of its internal compliance program by self reporting and taking the necessary corrective actions in a timely fashion.
- MDU fully cooperated with the MRO and willingly discussed the alleged violation and provided additional information regarding the alleged violation in a timely manner.
- MRO determined the violation did not pose a serious or significant risk to the bulk power system because MDU performed the hydrometer readings every six months for 36 of its 46 substations. Additionally, MDU performed monthly voltage readings on each of the batteries at all 46 of its substations. Through the monthly voltage readings, MDU staff would have been alerted to any sign of battery cell weakness or failure.
- This is the first violation of Reliability Standard PRC-005-1, R2 by MDU.

This proposed penalty or sanction is subject to review and possible revision by NERC and FERC. NERC will include its determination of the proposed penalty or sanction in a Notice of Proposed Penalty or Sanction to be filed with FERC.

DOCUMENTATION PERFORMANCE BOTH

EXPLAIN (FOR DOCUMENTATION-TYPE VIOLATIONS, INCLUDE A DESCRIPTION OF HOW THE REGIONAL ENTITY VERIFIED THAT THE REGISTERED ENTITY HAD PERFORMED IN ACCORDANCE WITH THE RELIABILITY STANDARD(S)/REQUIREMENT(S))

See above.

(2) REGISTERED ENTITY'S COMPLIANCE HISTORY





PRIOR VIOLATIONS OF THIS RELIABILITY STANDARD OR REQUIREMENT(S)
THEREUNDER

YES NO
NUMBER OF SUCH VIOLATIONS

LIST ANY CONFIRMED OR SETTLED VIOLATIONS AND STATUS

PRIOR VIOLATIONS OF OTHER RELIABILITY STANDARD(S) OR REQUIREMENTS
THEREUNDER

YES NO
NUMBER OF SUCH VIOLATIONS

LIST ANY PRIOR CONFIRMED OR SETTLED VIOLATIONS AND STATUS

(3) THE DEGREE AND QUALITY OF COOPERATION BY THE REGISTERED ENTITY (IF
THE RESPONSE TO FULL COOPERATION IS "NO," THE ABBREVIATED NOP FORM MAY
NOT BE USED.)

FULL COOPERATION YES NO
EXPLAIN

**MDU fully cooperated with MRO providing additional information and
working with MRO staff to determine the extent of the self reported
violation.**

EXEMPLARY COOPERATION YES NO
EXPLAIN

**MDU fully cooperated with MRO and demonstrated its commitment to
compliance in quickly resolving the noncompliance. MDU's actions met
MRO's expectations with regard to full cooperation.**

(4) THE PRESENCE AND QUALITY OF THE REGISTERED ENTITY'S COMPLIANCE
PROGRAM

IS THERE A DOCUMENTED COMPLIANCE PROGRAM
YES NO
EXPLAIN





Formal corporate policy for compliance with NERC Reliability Standards has been adopted by MDU.

DOES SENIOR MANAGEMENT TAKE ACTIONS THAT SUPPORT THE COMPLIANCE PROGRAM, SUCH AS TRAINING, COMPLIANCE AS A FACTOR IN EMPLOYEE EVALUATIONS, OR OTHERWISE

YES NO

EXPLAIN

Training is provided and senior management encourages compliance with NERC Reliability Standards through formal corporate policy.

EXPLAIN SENIOR MANAGEMENT’S ROLE AND INVOLVEMENT WITH RESPECT TO THE REGISTERED ENTITY’S COMPLIANCE PROGRAM

EXPLAIN

Senior Management at MDU has communicated a commitment to compliance through the adoption of a formal policy and training program. Compliance with NERC Reliability Standards is a focus of senior management.

(5) ANY ATTEMPT BY THE REGISTERED ENTITY TO CONCEAL THE VIOLATION OR INFORMATION NEEDED TO REVIEW, EVALUATE OR INVESTIGATE THE VIOLATION (IF THE RESPONSE IS “YES,” THE ABBREVIATED NOP FORM MAY NOT BE USED.)

YES NO

EXPLAIN

(6) ANY EVIDENCE THIS WAS AN INTENTIONAL VIOLATION (IF THE RESPONSE IS “YES,” THE ABBREVIATED NOP FORM MAY NOT BE USED.)

YES NO

EXPLAIN

(7) ANY OTHER MITIGATING FACTORS FOR CONSIDERATION

YES NO

EXPLAIN





(8) ANY OTHER AGGRAVATING FACTORS FOR CONSIDERATION (IF THE RESPONSE IS “YES,” THE ABBREVIATED NOP FORM MAY NOT BE USED.)

YES NO

EXPLAIN

(9) ANY OTHER EXTENUATING CIRCUMSTANCES (IF THE RESPONSE IS “YES,” THE ABBREVIATED NOP FORM MAY NOT BE USED.)

YES NO

EXPLAIN

RELEVANT DOCUMENTS/EXHIBITS:

- MDU SELF REPORT, dated September 18, 2009
- MDU MITIGATION PLAN, submitted on October 20, 2009
- MDU CERTIFICATION OF MITIGATION COMPLETE, dated October 28, 2009
- MDU RESPONSE TO NAVAPS, dated November 3, 2009

OTHER RELEVANT INFORMATION:

MDU is a division of MDU Resources Group, Inc., a diversified energy company based in Bismarck, ND. MDU provides natural gas and/or electric service to parts of Montana, North Dakota, South Dakota and Wyoming. The MDU service area covers more than 168,000 square miles and serves about 355,000 customers. MDU provides electric service to approximately 74,300 North Dakota customers; approximately 8,700 South Dakota customers; and approximately 24,000 Montana customers.

NOTICE OF ALLEGED VIOLATION AND PROPOSED PENALTY OR SANCTION ISSUED
DATE : 10/13/2009 OR N/A

Upon receiving the Notice of Alleged Violation and Proposed Penalty or Sanction, MDU responded with a written statement dated November 3, 2009. MDU elected to agree with or not contest the Alleged Violation and proposed penalty or sanction as detailed in the Notice of Alleged Violation and Proposed Penalty or Sanction dated October 13, 2009.

NOTICE OF CONFIRMED VIOLATION ISSUED





DATE: 12/23/09 OR N/A

SUPPLEMENTAL RECORD INFORMATION

DATE(S) _ _ _ _ OR N/A

REGISTERED ENTITY RESPONSE CONTESTED
FINDINGS PENALTY BOTH

HEARING REQUESTED

YES NO

DATE

OUTCOME

APPEAL REQUESTED



Attachment b

MDU Self Report, dated September 18, 2009

<u>Registered Entity</u>	<u>Requirement</u>	Description	<u>Violation Risk Factor</u>	<u>Date Of Occurrence</u>	<u>Submitted On</u>	<u>Status</u>
Montana-Dakota Utilities Company	PRC-005-1 R1	Each Transmission Owner and any Distribution Provider that owns a transmission Protection System and each Generator Owner that owns a generation Protection System shall have a Protection System maintenance and testing program for Protection Systems that affect the reliability of the BES. The program shall include:	High	Nov 9, 2009	Nov 13, 2009	Validated

Midwest Reliability Organization

Program Year 2009

Administrator

Self Report Maintenance

Self Report Details

* Standard Requirement

PRC-005-1 R1

* Date Alleged Violation Occurred

Nov 9, 2009

* Alleged Violation Description and Cause

Montana-Dakota's Transmission Protection Systems Maintenance Plan indicates the maintenance testing intervals, but does not mention the basis for the testing intervals as required by Requirement R1.1 of PRC-005-1. A copy of the Transmission Protection Systems Maintenance Plan dated 21 September 2009 is provided.

* Potential Impact to the Bulk Power System

Montana-Dakota has been using the maintenance testing intervals specified in its Transmission Protection Systems Maintenance Plan for many years and found them satisfactory for its system operation. Therefore, failing to include the basis in the Plan would not have any impact to the Bulk Transmission System.

Attachment c

**MDU Mitigation Plan, submitted on October 20,
2009**



Mitigation Plan

Mitigation Plan submitted on: **Oct 20, 2009**

Mitigation Plan Completed (Yes/No):

Mitigation Plan Completed On:

Midwest Reliability Organization



Section A: Compliance Notices

• Section 6.2 of the NERC CMEP¹ sets forth the information that must be included in a Mitigation Plan. The Mitigation Plan must include:

(1) The Registered Entity's point of contact for the Mitigation Plan, who shall be a person (i) responsible for filing the Mitigation Plan, (ii) technically knowledgeable regarding the Mitigation Plan, and (iii) authorized and competent to respond to questions regarding the status of the Mitigation Plan. This person may be the Registered Entity's point of contact described in Section B.

(2) The Alleged or Confirmed Violation(s) of Reliability Standard(s) the Mitigation Plan will correct.

(3) The cause of the Alleged or Confirmed Violation(s).

(4) The Registered Entity's action plan to correct the Alleged or Confirmed Violation(s).

(5) The Registered Entity's action plan to prevent recurrence of the Alleged or Confirmed violation(s).

(6) The anticipated impact of the Mitigation Plan on the bulk power system reliability and an action plan to mitigate any increased risk to the reliability of the bulk power-system while the Mitigation Plan is being implemented.

(7) A timetable for completion of the Mitigation Plan including the completion date by which the Mitigation Plan will be fully implemented and the Alleged or Confirmed Violation(s) corrected.

(8) 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 or recommended to the applicable governmental authorities for not completing work associated with accepted milestones.²

(9) Any other information deemed necessary or appropriate.

(10) The Mitigation Plan shall be signed by an officer, employee, attorney or other authorized representative of the Registered Entity, which if applicable, shall be the person that signed the Self Certification or Self Reporting submittals.

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

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

1. Uniform Compliance Monitoring and Enforcement Program ("NERC CMEP") 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.) Or the North American Electric Reliability Corporation Compliance Monitoring and Enforcement Program – Province of Manitoba, Schedule "B" to the Interim Agreement on Compliance Monitoring and Enforcement in Manitoba between NERC, the Regional Entity, and Manitoba Hydro (available upon request from the Regional Entity).

2. Implementation milestones that precede the date that a Mitigation Plan becomes effective in Manitoba will be considered to be extended until the date that the Mitigation Plan becomes effective.



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- This Mitigation Plan form may be used to address one or more related alleged or confirmed violations of one Reliability Standard. A separate mitigation plan is required to address alleged or confirmed violations with respect to each additional Reliability Standard, as applicable.
 - If the Mitigation Plan is accepted by regional entity(ies) and approved by NERC, a copy of this Mitigation Plan will be provided to the Federal Energy Regulatory Commission or filed with the applicable governmental authorities for approval in Canada.
 - Regional Entity(ies) or NERC may reject Mitigation Plans that they determine to be incomplete or inadequate.
 - Remedial action directives also may be issued as necessary to ensure reliability of the bulk power system.
 - The user has read and accepts the conditions set forth in these Compliance Notices.



Section B: Registered Entity Information

B.1

Identify your organization:

Entity Name: **Montana-Dakota Utilities Company**

Address: **400 North Fourth Street, Bismarck, North Dakota 58501, United States**

NERC Compliance Registry ID: *[If known]* **NCR01015**

B.2

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

Name: **Hoa Nguyen**

Title: **Resource Planning Coordinator**

Email: **hoa.nguyen@mdu.com**

Phone: **701-222-7656**



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

C.1

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

Standard Requirement: **PRC-005-1 R2**

Description: ***Each Transmission Owner and any Distribution Provider that owns a transmission Protection System and each Generator Owner that owns a generation Protection System shall provide documentation of its Protection System maintenance and testing program and the implementation of that program to its Regional Reliability Organization on request (within 30 calendar days). The documentation of the program implementation shall include:***

Violation Date: **Aug 12, 2009**

C.2

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

There are 46 Montana-Dakota Utilities Co. substations of which batteries supply DC source to transmission protection devices at 115 kV and above. Of these substations, eight (8) are distribution substations with 115 kV high-side, three (3) are fed by a radial 115 kV line, seven (7) are owned by other entities but maintained by Montana-Dakota under contracts, and the remaining 28 are transmission substations owned by Montana-Dakota.

This alleged violation was determined after a review of the storage battery testing process and the associated documentation and record keeping process. This review yielded two findings of interest.

- 1. Montana-Dakota failed to perform hydrometer readings on batteries of ten (10) of the above substations.***
- 2. For the remaining 36 substations, hydrometer readings were performed at six-month intervals as stated on the Storage Battery Maintenance form, but not at three-month intervals as stated in the Protection System Maintenance and Testing Program.***

C.3

Provide any relevant information regarding the violations associated with this Mitigation Plan: ***[If known] The list of 46 Montana-Dakota Utilities Co. substations mentioned above is provided. The list of hydrometer reading dates is also provided. We are also providing the old Storage Battery form and Protection System Maintenance and Testing Program (as of 09/27/2006).***



Section D: Details of Proposed Mitigation Plan

Mitigation Plan Contents

D.1

Identify and describe the action plan, including specific tasks and actions that your organization is proposing to undertake, or which it undertook if this Mitigation Plan has been completed, to correct the violation(s) identified above in Section C.1 of this form:

The following steps were taken to correct this deficiency:

- 1. A letter was sent to all affected areas of the company on August 20, 2009 stating the importance of performing these readings on the prescribed basis and requiring all locations to be current as of August 31, 2009.***
- 2. The record keeping process was revised on August 12, 2009 to separately track the receipt of hydrometer readings for each substation so any missed stations can be quickly identified and action taken to obtain the readings.***
- 3. Whenever a substation has not had hydrometer readings taken during the correct month a letter will be sent to the supervisor of the affected area advising them of the missing report.***
- 4. The Protection System Maintenance and Testing Program and Storage Battery Monthly Report form requirements was revised so they will agree with each other and both state the interval to be five to seven months.***

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: **Oct 30, 2009**

D.3

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

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

(*) Note: Implementation milestones no more than three (3) months apart for Mitigation Plans with expected completion dates more than three (3) months from the date of submission. Additional violations could be determined for not completing work associated with accepted milestones.

Additional Relevant Information (Optional)

D.4

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

The revised Storage Battery form and the revised section of the Protection System Maintenance and Testing Program are provided. We are also providing the old Storage Battery form and Protection System Maintenance and Testing Program (as of 09/27/2006).



The old interval of three months was never followed, and we believe it was more of a typographical error in the Protection System Maintenance and Testing Program than an actual recommended interval. In reviewing IEEE Std. 450-2002 on battery maintenance recommendations, we found that specific gravity was to be taken on every cell once a year. We have reduced that interval to once every six months. IEEE also recommends taking voltage readings on each cell quarterly, but instead we have adopted doing this on a monthly basis instead. We also believe taking a full set of hydrometer readings every three months is excessive due to the time involved to take the readings, risk of spilled battery acid that may result in damage to cell connections, and maintenance personnel safety.



Section E: Interim and Future Reliability Risk

Abatement of Interim BPS Reliability Risk

E.1

While your organization is implementing the Mitigation Plan proposed in Section D of this form, the reliability of the Bulk Power System may remain at higher risk or be otherwise negatively impacted until the plan is successfully completed. To the extent they are, or may be, known or anticipated: (i) identify any such risks or impacts; and (ii) discuss any actions that your organization is planning to take or is proposing as part of the Mitigation Plan to mitigate any increased risk to the reliability of the bulk power system while the Mitigation Plan is being implemented:

There were no negative reliability impacts to the implementation of Montana-Dakota's mitigation plan for storage batteries. This alleged violation was quickly rectified through immediate steps taken to secure hydrometer readings at the locations found to be lacking.

While hydrometer readings were not taken every three months as specified in our Plan, monthly voltage readings were taken without fail on each cell of the batteries at all the substations. Any unacceptable variation in voltage noted by these readings would have signaled signs of battery cell weakness or failure and corrective action would have followed. Impact to the bulk electric system by not taking hydrometer readings was minimal to remote.

Prevention of Future BPS Reliability Risk

E.2

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

Through the implementation of the steps outlined in the mitigation plan, Montana-Dakota will be able to make timely discovery of any missing test data and take prompt action to obtain the necessary readings.

E.3

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



Section F: Authorization

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

- (a) Submits the Mitigation Plan, as laid out in Section D, to the Regional Entity for acceptance and approval by NERC, and
- (b) If applicable, certifies that the Mitigation Plan, as laid out in Section D of this form, was completed (i) as laid out in Section D of this form and (ii) on or before the date provided as the 'Date of Completion of the Mitigation Plan' on this form, and
- (c) Acknowledges:
 - 1. I am **Manager** of **Montana-Dakota Utilities Company**.
 - 2. I am qualified to sign this Mitigation Plan on behalf of **Montana-Dakota Utilities Company**.
 - 3. I have read and understand **Montana-Dakota Utilities Company's** obligations to comply with Mitigation Plan requirements and ERO remedial action directives as well as ERO documents, including, but not limited to, the NERC Rules of Procedure and the NERC CMEP currently in effect or the NERC CMEP-Province of Manitoba, Schedule B currently in effect, whichever is applicable.
 - 4. I have read and am familiar with the contents of the foregoing Mitigation Plan.
 - 5. **Montana-Dakota Utilities Company** agrees to be bound by, and comply with, this Mitigation Plan, including the timetable completion date, as accepted by the Regional Entity, NERC, and if required, the applicable governmental authorities in Canada.

Authorized Individual Signature _____

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

Name: **Darcy Neigum**

Title: **Manager**

Authorized On: **Oct 02, 2009**

Attachment d

**MDU Certification of Mitigation Complete, dated
October 28, 2009**



Certification of Mitigation Plan Completion

Submittal of a Certification of Mitigation Plan Completion shall include data or information sufficient for Midwest Reliability Organization to verify completion of the Mitigation Plan. Midwest Reliability Organization may request additional data or information and conduct follow-up assessments, on-site or other Spot Checking, or Compliance Audits as it deems necessary to verify that all required actions in the Mitigation Plan have been completed and the Registered Entity is in compliance with the subject Reliability Standard. (CMEP Section 6.6)

Registered Entity Name: Montana-Dakota Utilities Co.

NERC Registry ID: NCR01015

Date of Submittal of Certification: 10/28/09

NERC Violation ID No(s): MRO200900115

Reliability Standard and the Requirement(s) of which a violation was mitigated: PRC-005-1, R2

Date Mitigation Plan was scheduled to be completed per accepted Mitigation Plan: 10/30/09

Date Mitigation Plan was actually completed: 10/26/09

Additional Comments (or List of Documents Attached): The list of hydrometer reading dates as of October 26, 2009 is provided.

I certify that the Mitigation Plan for the above named violation has been completed on the date shown above and that all submitted information is complete and correct to the best of my knowledge.

Name: Hoa V. Nguyen

Title: Resource Planning Corrdinator

Email: hoa.nguyen@mdu.com

Phone: 701-222-7656

Authorized Signature *Hoa V. Nguyen* Date 10/28/09

Please direct any questions regarding completion of this form to the Midwest Reliability Organization e-mail address mco@midwestreliability.org

Please submit the completed form via CDSM at www.midwestreliability.org



Attachment e

MDU Response to Notice of Alleged Violation and Proposed Penalty or Sanction, dated November 3, 2009



400 North Fourth Street
Bismarck, ND 58501

(701) 222-7900
(701) 222-7845 fax

RECEIVED NOV 04 2009

November 3, 2009

Sara E. Patrick
Director of Regulatory Affairs and Enforcement
Midwest Reliability Organization
2774 Cleveland Avenue N.
Roseville, MN 55113

Re: NERC Violation Tracking ID Number: MRO200900115

Dear Ms. Patrick;

Montana-Dakota Utilities Co. (Montana-Dakota) is in receipt of the Midwest Reliability Organization's (MRO) Notice of Alleged Violation and Proposed Penalty or Sanction regarding NERC Violation Tracking ID Number MRO200900115 dated October 13, 2009. Montana-Dakota does not contest the Alleged Violation or the proposed penalty amount. Montana-Dakota has already filed and the MRO has accepted a mitigation plan and completion certificate regarding MRO200900115.

Sincerely,

A handwritten signature in black ink that reads 'Andrea Stomberg'. The signature is fluid and cursive, with the first name 'Andrea' and last name 'Stomberg' clearly distinguishable.

Andrea Stomberg
Vice-President Electric Supply

Attachment f

Notice of Filing

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Montana Dakota-Utilities Company 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 Montana Dakota-Utilities Company in the Midwest Reliability Organization region.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, D.C. There is an "eSubscription" link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: [BLANK]

Kimberly D. Bose,
Secretary