



NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

November 13, 2009

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

**Re: NERC Notice of Penalty regarding East Kentucky Power Cooperative, 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 East Kentucky Power Cooperative (EKPC), NERC Registry ID NCR01225,<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>

This Notice of Penalty is being filed with the Commission because, based on information from SERC Reliability Corporation (SERC), SERC and EKPC have entered into a Settlement Agreement in which EKPC has agreed to the proposed penalty of \$115,000<sup>4</sup> to be assessed to EKPC, in addition to other actions to promote prospective compliance required under the terms and conditions of the Settlement Agreement, and to resolve all outstanding issues arising from a preliminary and non-public assessment resulting in SERC's determination and findings of the enforceable alleged violations of Reliability Standards BAL-001-0<sup>5</sup> Requirement (R) 1 and

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<sup>1</sup> *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards* (Order No. 672), III FERC Stats. & Regs. ¶ 31,204 (2006); *Notice of New Docket Prefix "NP" for Notices of Penalty Filed by the North American Electric Reliability Corporation*, Docket No. RM05-30-000 (February 7, 2008). *See also* 18 C.F.R. Part 39 (2008). *Mandatory Reliability Standards for the Bulk-Power System*, FERC Stats. & Regs. ¶ 31,242 (2007) (Order No. 693), *reh'g denied*, 120 FERC ¶ 61,053 (2007) (Order No. 693-A).

<sup>2</sup> SERC Reliability Corporation confirmed that East Kentucky Power Cooperative was included on the NERC Compliance Registry and was subject to the requirements of the NERC Reliability Standards set forth herein.

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

<sup>4</sup> The aggregate penalty amount of \$115,000 set forth in the Settlement Agreement includes a \$7,500 penalty for each month of the rolling 12-month period ending June 30, 2008 for the violation of BAL-001-0 R1 and a single penalty of \$25,000 for the violation of BAL-005-0 R2.

<sup>5</sup> BAL-001-0 was approved by the Commission and became enforceable on June 18, 2007. On August 28, 2008, BAL-001-0a was approved by the Commission and became enforceable. On May 13, 2009, BAL-001-0.1a was approved by the Commission and became enforceable. The interpretation provides clarity regarding the responsibility of a registered entity and does not change the meaning or language of the NERC Reliability Standard and its requirements. The erratum corrects typographical errors and does not change the meaning or language of the

BAL-005-0<sup>6</sup> R2 at issue in this Notice of Penalty. Accordingly, the alleged violations identified as NERC Violation Tracking Identification Numbers SERC200800099 and SERC200800106 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 as of October 3, 2008, by and between SERC and EKPC, which is 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	East Kentucky Power Cooperative	NOC-113	SERC200800099	BAL-001-0	1	Medium	115,000
SERC	East Kentucky Power Cooperative	NOC-113	SERC200800106	BAL-005-0	2	High	

The purpose of Reliability Standard BAL-001-0 is to maintain Interconnection steady-state frequency within defined limits by balancing real power demand and supply in real-time.

In summary, BAL-001-0 R1 requires each Balancing Authority, such as EKPC, to operate such that, on a rolling 12-month basis, the average of the clock-minute averages of the Balancing Authority’s Area Control Error (ACE) divided by 10B (B is the clock-minute average of the Balancing Authority Area’s Frequency Bias) times the corresponding clock-minute averages of the Interconnection’s Frequency Error is less than a specific limit. This limit  $\epsilon_1^2$  is a constant derived from a targeted frequency bound (separately calculated for each Interconnection) that is reviewed and set as necessary by the NERC Operating Committee.<sup>7</sup>

According to SERC and as set forth in the Settlement Agreement, as a Balancing Authority, EKPC submits to SERC on a monthly basis its area control performance results calculated pursuant to the formulas set forth in NERC Reliability Standard BAL-001-0 and the associated

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NERC Reliability Standard and its requirements. For purposes of this Notice of Penalty, the Standard will be referred to as BAL-001-0.

<sup>6</sup> BAL-005-0 was approved by the Commission and became enforceable on June 18, 2007. On August 28, 2008, BAL-005-0b was approved by the Commission and became enforceable. On May 13, 2009, BAL-005-0.1b was approved by the Commission and became enforceable. The interpretation provides clarity regarding the responsibility of a registered entity and does not change the meaning or language of the NERC Reliability Standard and its requirements. The erratum corrects typographical errors and does not change the meaning or language of the NERC Reliability Standard and its requirements. For purposes of this Notice of Penalty, the Standard will be referred to as BAL-001-0.

<sup>7</sup> See the Reliability Standard to view the equation associated with this requirement.

Measure 1. The BAL-001-0 standard is referred to as the Control Performance Standard. The control performance standard set forth in R1 and Measure 1 of BAL-001-0 is referred to as “CPS1.” Balancing Authorities in the SERC Region must submit their monthly CPS1 value and rolling 12-month average CPS1 value on or before the 15th of the following month. On March 13, 2008, EKPC submitted to SERC a self-report of a possible violation of BAL-001-0, R1 for the February 2008 reporting period.<sup>8</sup> The self-report stated that EKPC’s CPS1 “12-month rolling average calculated as of February 29, 2008 had dropped below 100% as required in BAL-001, Requirement 1.” EKPC reported that its rolling 12-month average CPS1 value as of the end of February 2008 had dropped to 98.8%. EKPC subsequently submitted self-reports on March 28, 2008,<sup>9</sup> May 7, 2008, May 27, 2008 and July 2, 2008 that its violation of BAL-001-0 R1 was continuing in the months of March, April, May and June 2008 as its rolling 12-month average CPS1 value was 96.2%, 96.2%, 97.7% and 98.9%, respectively.

According to SERC, SERC Compliance Enforcement Staff reviewed EKPC’s monthly CPS data submittals which show that EKPC failed to achieve a rolling 12-month average CPS1 value 100% or greater as required by the standard for the months of February, March, April, May and June of 2008. EKPC’s submittals for the months of July and August 2008 indicate that EKPC has achieved the minimum 100% rolling 12-month average CPS1. Based on this review, SERC Compliance Enforcement Staff determined EKPC to be in violation of BAL-001-0 R1 for the rolling 12-month period ending February 29, 2008, and for each subsequent rolling 12-month period thereafter through June 30, 2008. However, some of the data used to calculate the rolling 12-month average CPS1 pre-dates June 18, 2007, the date upon which the BAL-001-0 Reliability Standard was approved as mandatory and enforceable by the Commission. Therefore, SERC Compliance Enforcement Staff concluded that the violation by EKPC of BAL-001-0 R1 and applied only to the rolling 12-month period that ended June 30, 2008 because all data used for calculating annual CPS1 and for determining compliance with the approved BAL-001-0 Standard was from the post June 18, 2007 period.

The purpose of Reliability Standard BAL-005-0 is to establish requirements for Balancing Authority Automatic Generation Control (AGC) necessary to calculate ACE and to routinely deploy the Regulating Reserve. The standard also ensures that all facilities and load electrically synchronized to the Interconnection are included within the metered boundary of a Balancing Area so that balancing of resources and demand can be achieved.

BAL-005-0 R2 requires each Balancing Authority, such as EKPC, to maintain Regulating Reserve that can be controlled by AGC to meet the Control Performance Standard.

According to the Settlement Agreement, on April 14, 2008,<sup>10</sup> EKPC submitted to SERC a self-report of a possible violation of BAL-005-0 Requirement R2. EKPC’s self-report stated that it

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<sup>8</sup> While this standard is subject to a periodic reporting requirement, EKPC submitted both the self-report and the periodic report. In each case, the self-report was submitted prior to the due date for the periodic data submittal which was on the 15<sup>th</sup> of each month following the measuring period.

<sup>9</sup> The self-report for the March 2008 CPS1 reporting period was dated March 13, 2008 but it was actually submitted to SERC via email dated March 28, 2008. EKPC used its March 13, 2008 self-report for the February 2008 reporting period as the starting template for its March 2008 self-report and failed to correct the date on the form.

<sup>10</sup> The self-report for the alleged violation of BAL-005-0 R2 was not dated.

may have been in violation of BAL-001-0 and, “[a]s such, it is possible that the reason for the violation of BAL-001 was due to the failure to ‘maintain Regulating Reserve that can be controlled by AGC to meet the Control Performance Standard.’”

From the self-reports submitted by EKPC and conference calls with EKPC, SERC Compliance Enforcement Staff also concluded that, although EKPC did maintain satisfactory levels of reserve capacity, EKPC did not have a sufficient amount of its reserve capacity resources responsive to Automatic Generation Control as Regulating Reserve to enable EKPC to meet the Control Performance Standard.<sup>11</sup> Therefore SERC Compliance Enforcement Staff found that EKPC was in violation of Reliability Standard BAL-005-0 R2 for the months of February 2008 through June 2008, because it did not maintain sufficient Regulating Reserve controlled by AGC to meet the Control Performance Standard as required by BAL-005-0 R2. Therefore, SERC Compliance Enforcement Staff found EKPC to be in violation of BAL-005-0 R2 for the months of February 2008 through June 2008.

SERC assessed the alleged violation of BAL-001-0 R1<sup>12</sup> to have a “Medium” Violation Risk Factor (VRF). SERC assessed the alleged violation of BAL-005-0 R2<sup>13</sup> to be a “High” VRF.

According to the Settlement Agreement SERC’s Compliance Enforcement Staff considered the following mitigation factors and found no aggravating factors in its investigation of these alleged violations: (1) EKPC self-disclosed the alleged violations and it took prompt actions to identify solutions to expeditiously restore compliance; (2) SERC Reliability Corporation Compliance Enforcement Staff determined that there were no aggravating factors that would have increased the penalty; (3) there were no repetitive violations; (4) there was no negative relevant compliance history; (5) there were no applicable compliance directives; (6) EKPC was cooperative in the violation investigation; (7) there was no evidence of any attempt by EKPC to conceal the alleged violations or that the alleged violations were intentional; and (8) there were no aggravating extenuating circumstances that would have led SERC Compliance Enforcement Staff to increase the penalty. Furthermore, based on EKPC’s demonstrated improvement in its CPS1 performance, its cooperation in the investigation of the alleged violations, its commitment to compliance, its agreement to expeditiously reconcile this issue via settlement, its relative size

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<sup>11</sup> The monthly CPS data submittals showed that EKPC’s individual monthly CPS1 values were below 100% in the months of August 2007 and in each month from November 2007 through April 2008 (79.2%, 90.9%, 96%, 95.4%, 71.7%, 71.4% and 98%, respectively). Because EKPC’s rolling 12-month average CPS1 is less than 100% as required by BAL-001-0 R1 and its individual monthly CPS1 values were also less than 100%, SERC Compliance Enforcement Staff concluded that EKPC did not maintain sufficient Regulating Reserve controlled by AGC to meet the Control Performance Standards as required by BAL-005-0 R2.

<sup>12</sup> When NERC filed VRFs it originally assigned BAL-001-0 R1 a Lower VRF. The Commission approved the VRF as filed; however, it directed NERC to submit modifications. NERC submitted the modified Medium VRF and on February 6, 2008, the Commission approved the modified Medium VRF. Therefore, the Lower VRF for BAL-001-0 R1 was in effect from June 18, 2007 until February 6, 2008 when the Medium VRF became effective.

<sup>13</sup> When NERC filed VRFs it originally assigned BAL-005-0 R2 a Lower VRF. The Commission approved the VRF as filed; however, it directed NERC to submit modifications. NERC submitted the modified High VRF and on February 6, 2008, the Commission approved the modified High VRF. Therefore, the Lower VRF for BAL-005-0 R2 was in effect from June 18, 2007 until February 6, 2008 when the High VRF became effective.

and potential impact on bulk power system reliability,<sup>14</sup> and recognizing the correlation between BAL-001-1 R1 and BAL-005-0 R2 because an entity that has a violation of BAL-001-1 R1 can also incur a violation of BAL-005-0 R2 for the same act, omission or deficiency, SERC Reliability Corporation Compliance Enforcement Staff agreed that the total aggregate penalty of \$115,000 was appropriate.

### **Status of Mitigation Plan**

EKPC's Mitigation Plan is embodied in the Settlement Agreement. For purposes of settling any and all disputes arising from SERC Compliance Enforcement Staff's assessment of the matters reported by EKPC in its self-reports, SERC and EKPC agree that for the Term of the Settlement Agreement, EKPC shall take the following actions: (1) maintain the required level of Regulating Reserve; (2) make schedule changes as necessary to help make Regulating Reserve available as discussed in the Settlement Agreement; (3) utilize combustion turbines in AGC mode as necessary to follow the non-conforming load and schedule ramps as discussed in the Settlement Agreement; (4) implement a long term solution of committing and dispatching its combustion turbines in load following modes responsive to Automatic Generation Control to ensure compliance with CPS1 and the terms of the Settlement Agreement; and (5) beginning with the month of May 2008, and in each month thereafter until the Settlement Agreement is terminated pursuant to Paragraph 36, achieve monthly CPS1 values greater than or equal to 110%.

As set forth in the Settlement Agreement, if EKPC fails, in any month during which the Settlement Agreement remains in effect, to achieve a monthly CPS1 value of at least 110%, EKPC will immediately pay to SERC the following additional penalty:

1. For the first such occurrence, EKPC shall pay to SERC \$10,000 if EKPC's monthly CPS1 value is less than 110% but is greater than or equal to 100%; provided that the penalty amount shall be increased to \$45,000 if EKPC's monthly CPS1 value is less than 100%;
2. For the second such occurrence, EKPC shall pay to SERC \$20,000 if EKPC's monthly CPS1 value is less than 110% but is greater than or equal to 100%; provided that the penalty amount shall be increased to \$75,000 if EKPC's monthly CPS1 value is less than 100%.
3. Thereafter, the monthly penalty for failure to achieve the specified monthly CPS1 values of at least 110% or 100% in subsequent consecutive months, will be doubled from any prior month's penalty for the same level of non-compliance.

On March 9, 2009, EKPC certified that it completed the mitigating actions included in the Settlement Agreement by December 31, 2008. EKPC submitted the following documents as evidence of compliance with the mitigating actions in the Settlement Agreement for BAL-001-0 R1: (1) CT Load Following Costs.xls 2008\_CPS.zip; (2) PSORD Policy 3-10-09.pdf; (3) GenopPerformance\_Feb09 3-10-09.pdf; (4) GenopPerformance\_Apr08 3-10-09.pdf; (5) February2008 CPS1 Communication 3-10-09.pdf; (6) TagForHalfHourSchedule 3-10-09.pdf; (7) CommunicationWithNCL 3-10-09.pdf; and (8) Excerpt from Power Supply Operations

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<sup>14</sup> EKPC is a distribution cooperative with a small load footprint within the Eastern Interconnection. Additionally, most of its transmission is radial.



Responsibility Document.doc. A description of each document is provided in EKPC's certification of completion of the mitigating actions as set forth in the Settlement Agreement.

EKPC submitted the following documents as evidence of compliance with the mitigating actions in the Settlement Agreement for BAL-005-0 R2: (1) CT Load Following Costs.xls 2008\_CPS.zip; (2) PSORD Policy 3-10-09.pdf; (3) GenopPerformance\_Feb09 3-10-09.pdf; (4) GenopPerformance\_Apr08 3-10-09.pdf; (5) February2008 CPS1 Communication 3-10-09.pdf; (6) TagForHalfHourSchedule 3-10-09.pdf; (7) CommunicationWithNCL 3-10-09.pdf; and (8) Excerpt from Power Supply Operations Responsibility Document.doc. A description of each document is provided in EKPC's certification of completion of the mitigating actions as set forth in the Settlement Agreement.

On March 10, 2009, SERC review the evidence submitted by EKPC and found EKPC to be compliant with BAL-001-0 R1 and BAL-005-0 R2.

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

### **Basis for Determination**

Taking into consideration the Commission's direction in Order No. 693 and the NERC Sanction Guidelines and the Commission's July 3, 2008 Guidance Order,<sup>15</sup> the NERC BOTCC reviewed the Settlement Agreement on October 27, 2008. The NERC BOTCC approved the Settlement Agreement, including SERC's imposition of a \$115,000 penalty against the EKPC, in addition to other actions to promote prospective compliance required under the terms and conditions of the Settlement Agreement, as discussed above in the Mitigation Plan section. In approving the Settlement Agreement, the NERC BOTCC reviewed the applicable requirements of the Commission-approved Reliability Standards and the underlying facts and circumstances of the alleged violations at issue.

In reaching this determination, NERC BOTCC considered the following factors as described in the Settlement Agreement: (1) EKPC self-reported the alleged violations in question; (2) EKPC took prompt action to identify and implement remedies that would prevent a recurrence of the alleged violations; (3) there were no aggravating extenuating factors to increase the penalty; (4) there were no repetitive violations; (5) EKPC was cooperative in the violation investigation; (6) there was no evidence that the alleged violations were intentional; (7) EKPC made no attempt to conceal the alleged violations; and (8) EKPC agreed to expeditiously reconcile the alleged violations via settlement.

The NERC BOTCC also took special note that:

- EKPC agreed to a minimum monthly CPS1 performance requirement of 110%, during the mitigation period; this is more stringent than the 100% normally required by the standards requirements in question.

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<sup>15</sup> *North American Electric Reliability Corporation*, "Guidance Order on Reliability Notices of Penalty," 124 FERC ¶ 61,015 (2008).

- While achieving >110% monthly CPS1 for fewer than six consecutive months or averaging 110% or greater over the six months could accelerate EKPC's return to compliance with the normal 100% 12-month-rolling-average CPS1 requirement, EKPC agreed to both (i) a minimum six month mitigation time period and (ii) to a reset and restart of the six-month mitigation period in the event the minimum 110% monthly performance requirement was not met for six months consecutively.
- EKPC had sufficient confidence in its ability to mitigate the alleged violations, in the manner and to the degree specified in the Settlement Agreement, so as to be willing to agree to expose itself to the additional penalties included therein that would have applied if EKPC had failed to achieve 110% CPS1 for each of six consecutive months.

Therefore, NERC approves the Settlement Agreement and believes that the proposed \$115,000 dollar penalty is appropriate and consistent with NERC's goal to 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 and material:

- a). EKPC's self-reports for the alleged violation of BAL-001-0 R1 dated March 13, 2008, March 13, 2008, May 7, 2008, May 27, 2008 and July 2, 2008 and the self-report for the alleged violation of BAL-005-0 R2 submitted April 14, 2008, included as Attachment a;
- b). Settlement Agreement by and Between East Kentucky Power Cooperative and SERC Reliability Corporation, executed on October 3, 2008, included as Attachment b;
- c). EKPC's certifications of completion of the mitigating actions for the alleged violations of BAL-001-0 R1 and BAL-005-0 R2 dated March 9, 2009, included as Attachment c; and
- d). SERC's statement regarding completion of the Settlement Agreement mitigating actions, dated March 10, 2009, included as Attachment d.

#### **A Form of Notice Suitable for Publication<sup>16</sup>**

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

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<sup>16</sup> See 18 C.F.R. § 39.7(d)(6).

## Notices and Communications

Notices and communications with respect to this filing may be addressed to the following:

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President and Chief Executive Officer  
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Vice President and General Counsel  
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(704) 357-7914 – facsimile  
kkeels@serc1.org

\*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.



## Conclusion

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

Respectfully submitted,

/s/ Rebecca J. Michael

Rebecca J. Michael  
Assistant General Counsel  
Holly A. Hawkins  
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Rick Sergel  
President and Chief Executive Officer  
David N. Cook  
Vice President and General Counsel  
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(609) 452-9550 – facsimile  
david.cook@nerc.net

cc: East Kentucky Power Cooperative  
SERC Reliability Corporation

Attachments

## **Attachment a**

**EKPC's self-reports for the alleged violation of  
BAL-001-0 R1 dated March 13, 2008, March 13,  
2008, May 7, 2008, May 27, 2008 and July 2, 2008  
and the self-report for the alleged violation of  
BAL-005-0 R2 submitted April 14, 2008**



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

Report Type (please check):  Self-Report       Complaint

Date of Report:   3/13/2008  

NAME OF PERSON REPORTING POSSIBLE STANDARD VIOLATION(S)		
CONTACT NAME Denver York		CONTACT TELEPHONE NUMBER (859) 745-9277
CONTACT E-MAIL Denver.York@ekpc.coop		CONTACT FAX
REPORTING COMPANY NAME East Kentucky Power Cooperative		ANONYMOUS? (Y/N) N
NERC OR REGIONAL STANDARD(S) AND SPECIFIC REQUIREMENT(S) POSSIBLY VIOLATED		
NAME OF COMPANY POSSIBLY VIOLATING STANDARD(S) East Kentucky Power Cooperative		ENTITY FUNCTION TYPE(S) Balancing Authority
STANDARD # AND VERSION BAL-001-0a	MEASURE / REQUIREMENT Requirement 1	DATE OF POSSIBLE VIOLATION(S) 2/29/2008
POSSIBLE VIOLATION DESCRIPTION, REASON FOR COMPLAINT, OR QUESTION		
CPS1 12-month rolling average has dropped below 100% as required in BAL-001, Requirement 1.		
RELIABILITY IMPACT (IF KNOWN)		
We believe the impact on the reliability of the Interconnected System is minimal, however, EKPC has submitted a mitigation plan that includes specific actions to be taken to return the average to within acceptable parameters. Actions include increasing operating reserves carried within the BA, working with the steel mill contained within the BA, and better matching schedule ramp in/out times to reduce the coincidence of these ramps with observed anomalies of interconnect frequency at the tops of hours.		

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

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



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

Report Type (please check):  Self-Report       Complaint

Date of Report:   3/13/2008  

NAME OF PERSON REPORTING POSSIBLE STANDARD VIOLATION(S)		
CONTACT NAME Denver York	CONTACT TELEPHONE NUMBER (859) 745-9277	
CONTACT E-MAIL Denver.York@ekpc.coop	CONTACT FAX	
REPORTING COMPANY NAME East Kentucky Power Cooperative	ANONYMOUS? (Y/N) N	
NERC OR REGIONAL STANDARD(S) AND SPECIFIC REQUIREMENT(S) POSSIBLY VIOLATED		
NAME OF COMPANY POSSIBLY VIOLATING STANDARD(S) East Kentucky Power Cooperative		ENTITY FUNCTION TYPE(S) Balancing Authority
STANDARD # AND VERSION BAL-001-0a	MEASURE / REQUIREMENT Requirement 1	DATE OF POSSIBLE VIOLATION(S) 3/31/2008
POSSIBLE VIOLATION DESCRIPTION, REASON FOR COMPLAINT, OR QUESTION		
CPS1 12-month rolling average has dropped below 100% as required in BAL-001, Requirement 1.		
RELIABILITY IMPACT (IF KNOWN)		
We believe the impact on the reliability of the Interconnected System is minimal, however, EKPC is working on a revised mitigation plan regarding this issue. Actions include increasing operating reserves carried within the BA, working with the steel mill contained within the BA, and better matching schedule ramp in/out times to reduce the coincidence of these ramps with observed deviations of interconnect frequency at the tops of hours. In addition, an RFP is being issued for obtaining regulation service from neighboring Bas.		

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

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



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

Report Type (please check):  Self-Report       Complaint

Date of Report:   5/7/2008  

NAME OF PERSON REPORTING POSSIBLE STANDARD VIOLATION(S)								
<table border="1" style="width: 100%;"><tr style="background-color: #4CAF50; color: white;"><th style="text-align: center; padding: 2px;">CONTACT NAME</th></tr><tr><td style="text-align: center; padding: 2px;">Denver York</td></tr></table>	CONTACT NAME	Denver York	<table border="1" style="width: 100%;"><tr style="background-color: #4CAF50; color: white;"><th style="text-align: center; padding: 2px;">CONTACT TELEPHONE NUMBER</th></tr><tr><td style="text-align: center; padding: 2px;">(859) 745-9277</td></tr></table>	CONTACT TELEPHONE NUMBER	(859) 745-9277			
CONTACT NAME								
Denver York								
CONTACT TELEPHONE NUMBER								
(859) 745-9277								
<table border="1" style="width: 100%;"><tr style="background-color: #4CAF50; color: white;"><th style="text-align: center; padding: 2px;">CONTACT E-MAIL</th></tr><tr><td style="text-align: center; padding: 2px;">Denver.York@ekpc.coop</td></tr></table>	CONTACT E-MAIL	Denver.York@ekpc.coop	<table border="1" style="width: 100%;"><tr style="background-color: #4CAF50; color: white;"><th style="text-align: center; padding: 2px;">CONTACT FAX</th></tr><tr><td style="text-align: center; padding: 2px;"> </td></tr></table>	CONTACT FAX				
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REPORTING COMPANY NAME								
East Kentucky Power Cooperative								
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N								
NERC OR REGIONAL STANDARD(S) AND SPECIFIC REQUIREMENT(S) POSSIBLY VIOLATED								
<table border="1" style="width: 100%;"><tr style="background-color: #4CAF50; color: white;"><th style="text-align: center; padding: 2px;">NAME OF COMPANY POSSIBLY VIOLATING STANDARD(S)</th></tr><tr><td style="text-align: center; padding: 2px;">East Kentucky Power Cooperative</td></tr></table>	NAME OF COMPANY POSSIBLY VIOLATING STANDARD(S)	East Kentucky Power Cooperative	<table border="1" style="width: 100%;"><tr style="background-color: #4CAF50; color: white;"><th style="text-align: center; padding: 2px;">ENTITY FUNCTION TYPE(S)</th></tr><tr><td style="text-align: center; padding: 2px;">Balancing Authority</td></tr></table>	ENTITY FUNCTION TYPE(S)	Balancing Authority			
NAME OF COMPANY POSSIBLY VIOLATING STANDARD(S)								
East Kentucky Power Cooperative								
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STANDARD # AND VERSION								
BAL-001-0a								
MEASURE / REQUIREMENT								
Requirement 1								
DATE OF POSSIBLE VIOLATION(S)								
4/30/2008								
POSSIBLE VIOLATION DESCRIPTION, REASON FOR COMPLAINT, OR QUESTION								
CPS1 12-month rolling average has dropped below 100% as required in BAL-001, Requirement 1.								
RELIABILITY IMPACT (IF KNOWN)								
We believe the impact on the reliability of the Interconnected System is minimal, however, EKPC is working with SERC on a settlement regarding this issue. Actions include working with the steel mill contained within the BA to coordinate load changes, running combustion turbines for regulation, and better matching schedule ramp in/out times.								

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

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





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

Report Type (please check):  Self-Report       Complaint

Date of Report:   5/27/2008  

NAME OF PERSON REPORTING POSSIBLE STANDARD VIOLATION(S)		
CONTACT NAME Denver York		CONTACT TELEPHONE NUMBER (859) 745-9277
CONTACT E-MAIL Denver.York@ekpc.coop		CONTACT FAX
REPORTING COMPANY NAME East Kentucky Power Cooperative		ANONYMOUS? (Y/N) N
NERC OR REGIONAL STANDARD(S) AND SPECIFIC REQUIREMENT(S) POSSIBLY VIOLATED		
NAME OF COMPANY POSSIBLY VIOLATING STANDARD(S) East Kentucky Power Cooperative		ENTITY FUNCTION TYPE(S) Balancing Authority
STANDARD # AND VERSION BAL-001-0a	MEASURE / REQUIREMENT Requirement 1	DATE OF POSSIBLE VIOLATION(S) 5/31/2008
POSSIBLE VIOLATION DESCRIPTION, REASON FOR COMPLAINT, OR QUESTION		
CPS1 12-month rolling average has dropped below 100% as required in BAL-001, Requirement 1. Despite the 12-month average still being below 100%, the monthly statistic is near 130% month-to-date.		
RELIABILITY IMPACT (IF KNOWN)		
We believe the impact on the reliability of the Interconnected System is minimal, however, EKPC is working with SERC on a settlement regarding this issue. Actions include working with the steel mill contained within the BA to coordinate load changes, running combustion turbines for regulation, and better matching schedule ramp in/out times.		

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

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



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

Report Type (please check):  Self-Report       Complaint

Date of Report:   7/2/2008  

NAME OF PERSON REPORTING POSSIBLE STANDARD VIOLATION(S)		
CONTACT NAME Denver York	CONTACT TELEPHONE NUMBER (859) 745-9277	
CONTACT E-MAIL Denver.York@ekpc.coop	CONTACT FAX	
REPORTING COMPANY NAME East Kentucky Power Cooperative	ANONYMOUS? (Y/N) N	
NERC OR REGIONAL STANDARD(S) AND SPECIFIC REQUIREMENT(S) POSSIBLY VIOLATED		
NAME OF COMPANY POSSIBLY VIOLATING STANDARD(S) East Kentucky Power Cooperative		ENTITY FUNCTION TYPE(S) Balancing Authority
STANDARD # AND VERSION BAL-001-0a	MEASURE / REQUIREMENT Requirement 1	DATE OF POSSIBLE VIOLATION(S) 6/30/2008
POSSIBLE VIOLATION DESCRIPTION, REASON FOR COMPLAINT, OR QUESTION		
CPS1 12-month rolling average has dropped below 100% as required in BAL-001, Requirement 1. Despite the 12-month average still being below 100%, the monthly statistic is near 123% month-to-date.		
RELIABILITY IMPACT (IF KNOWN)		
We believe the impact on the reliability of the Interconnected System is minimal, however, EKPC is working with SERC on a settlement regarding this issue. Actions include working with the steel mill contained within the BA to coordinate load changes, running combustion turbines for regulation, and better matching schedule ramp in/out times.		

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

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



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

Report Type (please check):  Self-Report       Complaint

Date of Report: \_\_\_\_\_

NAME OF PERSON REPORTING POSSIBLE STANDARD VIOLATION(S)		
CONTACT NAME Denver York		CONTACT TELEPHONE NUMBER (859) 745-9277
CONTACT E-MAIL <a href="mailto:Denver.york@ekpc.coop">Denver.york@ekpc.coop</a>		CONTACT FAX
REPORTING COMPANY NAME East Kentucky Power Cooperative		ANONYMOUS? (Y/N) N
NERC OR REGIONAL STANDARD(S) AND SPECIFIC REQUIREMENT(S) POSSIBLY VIOLATED		
NAME OF COMPANY POSSIBLY VIOLATING STANDARD(S) East Kentucky Power Cooperative		ENTITY FUNCTION TYPE(S) BA
STANDARD # AND VERSION BAL-005-0a	MEASURE / REQUIREMENT R2	DATE OF POSSIBLE VIOLATION(S) 2/1/2008
POSSIBLE VIOLATION DESCRIPTION, REASON FOR COMPLAINT, OR QUESTION		
East Kentucky Power Cooperative Violated BAL-001 R1. As such, it is possible that the reason for the violation of BAL-001 was due to the failure to "maintain Regulating Reserve that can be controlled by AGC to meet the Control Performance Standard."		
RELIABILITY IMPACT (IF KNOWN)		
The impact of this violation on the Bulk Power System is negligible.		

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

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

**Attachment b**

**Settlement Agreement by and Between East  
Kentucky Power Cooperative and SERC  
Reliability Corporation, executed on October 3,  
2008**

**SETTLEMENT AGREEMENT  
BETWEEN  
SERC RELIABILITY CORPORATION  
AND  
EAST KENTUCKY POWER COOPERATIVE**

**I. Introduction**

1. SERC RELIABILITY CORPORATION (“SERC”) and EAST KENTUCKY POWER COOPERATIVE (“EKPC”) (NERC Compliance Registry ID# 01225) enter into this Settlement Agreement (“Agreement”) to resolve all outstanding issues arising from a preliminary and non-public assessment resulting in SERC’s determination and findings, pursuant to the North American Electric Reliability Corporation (“NERC”) Rules of Procedure, of violations by EKPC of the NERC Reliability Standards BAL-001-0, Requirement 1 and BAL-005-0, Requirement 2 (SERC Issue Tracking No. 08-013 and 08-019; NERC Violation ID Nos. SERC200800099 and SERC200800106).

**II. Stipulation**

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

**Background**

3. EKPC is a Cooperative Corporation headquartered in Winchester, KY. EKPC was organized and exists under the laws of the State of Kentucky, is engaged in the business of selling electric power to member cooperatives, and owns and operates generating plants and a transmission system in the State of Kentucky. The member cooperatives established EKPC for the purpose of generating or otherwise acquiring electric capacity and energy and delivering or otherwise causing to be delivered electric capacity and energy to its member cooperatives that in turn provide electric service to their respective retail customers.
4. EKPC currently provides wholesale energy and services to 16 member distribution cooperatives through power plants, peaking units, hydro power, and power purchases and a transmission system consisting of more than 2,800 miles of transmission lines, in addition to transmission service purchased from transmission service providers other than EKPC. EKPC’s member distribution cooperatives supply energy to approximately 511,000 Kentucky homes, farms, businesses and industries across 87 counties. The 16 distribution cooperatives, which are called member systems, own EKPC.



5. SERC serves as the Regional Entity responsible for monitoring compliance and enforcing NERC Reliability Standards within the geographic area that includes the EKPC service area.
6. EKPC is now, and has been since May 31, 2007, listed on the NERC Compliance Registry as a Balancing Authority. EKPC, therefore, is subject to the Requirements of NERC Reliability Standards BAL-001-0 and BAL-005-0.
7. As a Balancing Authority, EKPC submits to SERC on a monthly basis its area control performance results calculated pursuant to the formulas set forth in NERC Reliability Standard BAL-001-0. The BAL-001-0 standard is referred to as the Control Performance Standard.<sup>1</sup> The control performance standard set forth in Requirement 1 and Measure 1 of BAL-001-0 is referred to as “CPS1” and the control performance standard set forth in Requirement 2 and Measure 2 of BAL-001-0 is referred to as “CPS2.”<sup>2</sup> Balancing Authorities in the SERC Region must submit their monthly CPS1 value and rolling 12-month average CPS1 value on or before the 15<sup>th</sup> of the following month.

### **Alleged Violations**

8. On March 13, 2008, EKPC submitted to SERC a Self Report of a possible violation of BAL-001-0, Requirement 1.<sup>3</sup> The Self Report stated that EKPC’s CPS1 “12-month rolling average calculated as of February 29, 2008 had dropped below 100% as required in BAL-001, Requirement 1.” EKPC reported that its rolling 12-month average CPS1 value as of the end of February 2008 had dropped to 98.8%. EKPC subsequently submitted Self-Reports on March 28, May 7, May 27 and July 2 that its violation of BAL-001 R1 was continuing in the months of March, April, May, and June 2008 as its rolling 12-month average CPS1 value was 96.2%, 96.2%, 97.7%, and 98.9% respectively.
9. On April 14, 2008, EKPC submitted to SERC a Self-Report of a possible violation of BAL-005-0 Requirement 2. EKPC’s Self-Report stated that it may have been in violation of BAL-001 and, “[a]s such, it is possible that the

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<sup>1</sup> The NERC Glossary of Terms defines Control Performance Standard (“CPS”) as “[t]he reliability standard that sets the limits of a Balancing Authority’s Area Control Error over a specified time period.”

<sup>2</sup> EKPC is exempt from CPS2 requirements due to its participation in the Balance Resource and Demand Standard Proof of Concept Field Trial.

<sup>3</sup> EKPC’s Self Reports reference “BAL-001-0a” which is an approved Interpretation of the Standard applicable to the WECC Region, therefore the record and findings appropriately refer to BAL-001-0.

reason for the violation of BAL-001 was due to the failure to ‘maintain Regulating Reserve that can be controlled by AGC to meet the Control Performance Standard.’”

10. Upon receipt of EKPC’s March 13, 2008 Self Report, SERC Compliance Enforcement staff (SERC Staff) confirmed EKPC’s NERC Registration Status as a Balancing Authority and notified EKPC on March 17, 2008 that it had initiated a formal assessment to determine EKPC’s compliance with Requirement 1 of BAL-001-0. Upon receipt of EKPC’s April 14, 2008 Self Report, SERC Staff notified EKPC on May 7, 2008 that it had initiated a formal assessment to determine EKPC’s compliance with Requirement 2 of BAL-005-0.
11. NERC Reliability Standard BAL-001-0 R1 and the associated Measure 1 stipulate that each Balancing Authority shall operate such that, on a rolling 12-month basis, the average of the Balancing Authority’s CPS1 statistic shall be greater than 100%.
12. NERC Reliability Standard BAL-005-0 R2 states that “[e]ach Balancing Authority shall maintain Regulating Reserve that can be controlled by AGC to meet the Control Performance Standard.”
13. SERC Staff reviewed EKPC’s Self-Reports and monthly CPS data submittals for the months of February, March, April, May, and June of 2008, conducted several conference calls and exchanged emails with EKPC’s representatives. As a result of its review and assessment, SERC Staff concluded that EKPC operated such that, on a rolling 12-month basis for each of the 12-month periods in 2008 ending on February 29, March 31, April 30, May 31 and June 30, the average of EKPC’s CPS1 statistic was less than 100% and therefore EKPC was in violation of Reliability Standard BAL-001-0 Requirement 1 for each period.
14. From EKPC self reports and conference calls with EKPC, SERC Staff also concluded that, although EKPC did maintain satisfactory levels of reserve capacity, EKPC did not have a sufficient amount of its reserve capacity resources responsive to AGC as Regulating Reserve to enable EKPC to meet the Control Performance Standard. Therefore SERC Staff found that EKPC was in violation of Reliability Standard BAL-005-0 Requirement 2 for the months of February 2008 through June 2008.
15. EKPC requested the initiation of settlement discussions by letter dated April 21, 2008.
16. On August 1, 2008, EKPC reported that its rolling 12-month average CPS1 had increased to 101.8%, above the specific limit of 100% as required by BAL-001-0 R1.

### III. PARTIES' SEPARATE REPRESENTATIONS

#### STATEMENT OF SERC AND SUMMARY OF FINDINGS

17. With regard to the Alleged Violation of BAL-001-0 R1, SERC Staff reviewed EKPC's monthly CPS data submittals which show that EKPC failed to achieve a rolling 12-month average CPS1 value 100% or greater as required by the standard for the months of February, March, April, May and June of 2008. EKPC's submittals for the months of July and August 2008 indicate that EKPC has achieved the minimum 100% rolling 12-month average CPS1. Based on this review, SERC Staff finds EKPC to be in violation of BAL-001-0 R1 for the rolling 12-month period ending February 29, 2008, and for each subsequent rolling 12-month period thereafter through June 30, 2008.
18. However, some of the data used to calculate the rolling 12-month average CPS1 pre-dates June 18, 2007, the date upon which the BAL-001-0 Reliability Standard was approved as mandatory and enforceable by the Commission. Therefore, SERC Staff concludes that the violation by EKPC of BAL-001-0 R1 applies only to the rolling 12-month period ending June 30, 2008 since all data used for calculating annual CPS1 and for determining compliance with the approved BAL-001-0 Standard is from the post June 18, 2007 period.
19. Because CPS is calculated on a monthly basis, and the BAL-001-0 R1 measure is based on a rolling 12-month average, SERC Staff concludes that the violations and associated penalties should be applied per occurrence rather than daily, consistent with the NERC Sanctions Guidelines (Appendix 4B to the Rules of Procedure) and with the rulings of the Federal Energy Regulatory Commission (Commission) regarding violations of requirements for which compliance is measured on the basis of actions that yield average quantities over a given time.
20. Upon receipt of EKPC's initial Self-Report regarding BAL-001-0, SERC Staff engaged in discussions with EKPC to explore potential solutions and develop action plans to enable EKPC to promptly improve its control performance. SERC Staff and EKPC conducted several phone conversations and email exchanges and analyzed load and frequency data requested from and provided by EKPC.
21. Through discussions with EKPC, SERC Staff learned that prior to the time that EKPC's rolling 12-month average CPS1 value dropped below 100%, EKPC had begun an investigation into the possible causes for reductions in the individual monthly CPS1 values. EKPC had identified that the 120 MW electric arc furnace load of a steel mill located in the EKPC control area

(EKPC's "Non-Conforming Load") was a major contributor to the reduction. In addition to EKPC's Non-Conforming Load, interchange schedules that were ramping in and ramping out at the top of selected hours were impacting EKPC's Area Control Error ("ACE"). To compensate for these two items, EKPC has worked with the Non-Conforming Load to modify their operations to be more consistent with the needs of EKPC's CPS1 compliance. EKPC has also initiated more efficient ramp availability during loading or unloading of schedules at times other than the top of the hours as these non-traditional ramp times are available with neighboring Balancing Authorities. EKPC has also instituted the use of combustion turbine generators outfitted for Automatic Generation Control ("AGC") to assist in following the Non-Conforming Load and to improve ramp availability during loading or unloading of schedules.

22. Through implementation of the measures described in Paragraph 21, it was determined that EKPC could achieve monthly CPS1 values in excess of 100%. Therefore, with the objective of promptly restoring and maintaining the rolling 12-month average CPS1 to a level above 100% as required by BAL-001-0 R1, SERC Staff directed that EKPC maintain its monthly CPS1 value at levels above 110% in each month until compliance with the 12-month average CPS1 requirement of 100% was restored and maintained for a period of six (6) consecutive months as part of this settlement. SERC Staff concluded that alleged violations of BAL-001-0, R1 and BAL-005-0, R2 of the NERC Standards could be assessed for June 2008, due to the 12 month average CPS1 numbers submitted by EKPC and the fact that EKPC did not dispatch adequate Regulating Reserves controlled by AGC to meet its CPS.
23. With regard to the Alleged Violation of BAL-005-0 R2, SERC Staff reviewed EKPC's monthly CPS data submittals which show that EKPC failed to achieve a rolling 12-month average CPS1 value 100% or greater as required by the standard for the months of February, March, April, May and June of 2008. The monthly CPS data submittals also show that EKPC's individual monthly CPS1 values were below 100% in the months of August 2007, and in each month from November 2007 through April 2008 (79.2%, 90.9%, 96%, 95.4%, 71.7%, 71.4% and 98%, respectively). Because EKPC's rolling 12-month average CPS1 is less than 100% as required by the BAL-001-0, R1 and its individual monthly CPS1 values are also less than 100 %, SERC Staff concluded that EKPC did not maintain sufficient Regulating Reserve controlled by AGC to meet the Control Performance Standard as required by BAL-005-0 R2. Therefore, SERC Staff found EKPC to be in violation of BAL-005-0 R2 for the rolling 12-month period ending February 29, 2008, and for each subsequent rolling 12-month period thereafter through June 30, 2008.
24. However, because some of the data used to calculate the rolling 12-month average CPS1 pre-dates June 18, 2007, the date upon which the BAL-005-0 Reliability Standard was approved as mandatory and enforceable by the

Commission, SERC Staff concluded that the violation by EKPC of BAL-005-0 R2 applies only to the rolling 12-month period ending June 30, 2008 since all data used for calculating annual CPS1 is from the post June 18, 2007 period.

25. Furthermore, because the Control Performance Standard referenced in BAL-005-0 R2 is calculated on a monthly and rolling 12-month average basis, SERC Staff concluded that the violations and associated penalties should be applied per occurrence rather than daily, consistent with the NERC Sanctions Guidelines (Appendix 4B to the Rules of Procedure) and with the rulings of the Commission regarding violations of requirements for which compliance is measured on the basis of actions that yield average quantities over a given time.
26. SERC has agreed to enter into this Agreement with EKPC to avoid extended litigation with respect to the matters described or referred to herein, to avoid uncertainty, and to effectuate a complete and final resolution of the issues set forth herein. SERC agrees that this Agreement is a reasonable compromise that serves the interests of the parties and the interests of maintaining a reliable electric infrastructure.
27. SERC agrees that this Agreement is in the best interest of the parties and in the best interest of bulk power system reliability.

#### **STATEMENT OF EKPC**

28. EKPC states that for February, March, April, May, and June of 2008, its 12 month average CPS1 was 98.8%, 96.2%, 96.2%, 97.7% and 98.9% respectively, and recognizes that such levels are below the levels required by BAL-001-0, R1. Furthermore EKPC states that it does not dispute the use of CPS data in the months prior to June 18, 2007 to determine these 12 month average CPS1 levels for purposes of this Agreement, but in so stating, EKPC does not admit that SERC may use data prior to June 18, 2007 in determining whether a Balancing Authority has complied with BAL-001-0, R1 or BAL-005-0, R2.
29. EKPC evaluated its CPS performance over the first 12 month period for which its rolling 12-month average CPS1 value was less than 100%. On days the arc furnace was down for maintenance and was not operating, EKPC attained a CPS1 of 149%. Thus EKPC concluded that the arc furnace is the major contributor to EKPC's low CPS1 performance. EKPC reviewed the typical operation and power consumption of the arc furnace and identified that the arc furnace load ramps upward for a period of time, runs fairly consistently, then drops off suddenly. EKPC learned that its AGC can respond to the slow ramp up, but the sudden drops in load cause the poorest CPS1 performance. Further analysis and operating experience revealed that increasing the amount of Regulating Reserve (unloaded generation)



exacerbated the problem by pushing units closer to their low limits, decreasing the ability to follow the sudden drops in load associated with the arc furnace.

30. EKPC has agreed to enter into this settlement Agreement with SERC to avoid extended litigation with respect to the matters described or referred to herein, to avoid uncertainty, and to effectuate a complete and final resolution of the issues set forth herein. EKPC agrees that this Agreement is a reasonable compromise that serves the interests of the parties and the interests of maintaining a reliable electric infrastructure.

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

31. For purposes of settling any and all disputes arising from SERC Staff's assessment of the matters reported by EKPC in its Self Reports, SERC and EKPC agree that for the Term of this Agreement, EKPC shall take the following actions:
- i. Maintain the required level of Regulating Reserve.
  - ii. Make schedule changes as necessary to help make Regulating Reserve available as discussed in Paragraph 21 of this Agreement.
  - iii. Utilize combustion turbines in AGC mode as necessary to follow the non-conforming load and schedule ramps as discussed in Paragraph 21 of this Agreement.
  - iv. Implement a long term solution of committing and dispatching its combustion turbines in load following modes responsive to AGC to ensure compliance with CPS1 and the terms of this Agreement.
  - v. Beginning with the month of May 2008, and in each month thereafter until this Agreement is terminated pursuant to Paragraph 36, achieve monthly CPS1 values greater than or equal to 110%.
32. In addition to the required actions set forth in Paragraph 31 above, EKPC shall pay a monetary penalty of \$ 115,000.00 to SERC, via wire transfer to a SERC account that will be outlined in an invoice sent to EKPC within twenty days after the Agreement is either approved by the Commission or is rendered effective by operation of law. Payment of this invoice shall be made within twenty days after the receipt of the invoice, and SERC shall notify EKPC within that timeframe. If SERC does not receive such payment from EKPC within five business days of such notice, then SERC may notify NERC that payment has not been received.

33. If EKPC fails, in any month during which this Agreement remains in effect, to achieve a monthly CPS1 value of at least 110%, EKPC will immediately pay to SERC the following additional penalty:
- i. For the first such occurrence, EKPC shall pay to SERC \$10,000.00 if EKPC's monthly CPS1 value is less than 110% but is greater than or equal to 100%; provided that the penalty amount shall be increased to \$45,000 if EKPC's monthly CPS1 value is less than 100%;
  - ii. For the second such occurrence, EKPC shall pay to SERC \$20,000.00 if EKPC's monthly CPS1 value is less than 110% but is greater than or equal to 100%; provided that the penalty amount shall be increased to \$75,000 if EKPC's monthly CPS1 value is less than 100%.
  - iii. Thereafter, the monthly penalty for failure to achieve the specified monthly CPS1 values of at least 110% or 100% in subsequent consecutive months, will be doubled from any prior month's penalty for the same level of non-compliance.
34. The aggregate penalty amount of \$115,000.00 set forth in Paragraph 32 above includes a \$7,500 penalty for each month of the rolling 12-month period ending June 30, 2008 for the violation of BAL-001-0 R1 and a single penalty of \$ 25,000.00 for the violation of BAL-005-0 R2.
35. SERC Staff initially determined an aggregate proposed penalty of \$230,000.00 for the violations of BAL-001-0 R1 (\$15,000 per month for 12 months) and BAL-005-0 R2 (\$50,000 per occurrence). The amount of the initial proposed penalty was derived from the Base Penalty Matrix, the indicated Medium Violation Risk Factor (VRF) applicable to BAL-001-0 R1 the indicated Higher VRF applicable to BAL-005-0 R2, the Lower Violation Severity Level (VSL) determined for each of the violations, and the adjustment factors set forth in Appendix 4B to the NERC Rules of Procedure. According to the Base Penalty Table of the NERC Sanction Guidelines, the base penalty range for a Lower VSL violation of a Medium VRF requirement is \$2,000 to \$30,000 per day and the base penalty range for a lower VSL violation of a High VRF requirement is \$4,000 to \$125,000 per day. Thus, the potential total base penalty range for the combined violations could be from \$6,000 to \$155,000 per day. However, SERC Staff considered EKPC's self-disclosure of the violation and its prompt actions to identify solutions to expeditiously restore compliance. Furthermore, SERC Staff determined that there were no aggravating factors that would have increased the penalty. In particular, there were no repetitive violations, no negative relevant compliance history, no applicable compliance directives, EKPC was not uncooperative in the violation investigation, there was no evidence of any

attempt by EKPC to conceal the violation or that the violations were intentional, and there were no aggravating extenuating circumstances that would have led SERC Staff to increase the penalty. SERC Staff initially determined that, in this instance, the aggregate penalty amount of \$230,000 bears a reasonable relation to the seriousness and duration of the violations and takes into consideration EKPC's voluntary efforts to remedy the violations in an accelerated manner. Furthermore, based on EKPC's demonstrated improvement in its CPS1 performance, its cooperation in the investigation of the violation, its commitment to compliance, its agreement to expeditiously reconcile this issue via settlement, its relative size and potential impact on Bulk-Power System reliability, and recognizing the correlation between BAL-001-1 Requirement 1 and BAL-005-0 Requirement 2, SERC Staff agreed to reduce the total aggregate penalty to \$115,000.00.

36. This Agreement shall become effective upon approval by NERC and the Commission and shall terminate on the last day of the month that EKPC's rolling 12-month average CPS1 exceeds 100% for six (6) consecutive months, which six month period may commence prior to the effective date of this Agreement.
37. In order to facilitate SERC's need to communicate the status and provide accountability to the ERO (NERC), EKPC will provide status updates monthly or more frequently, upon request by SERC. EKPC will submit these status updates to SERC in accordance with the confidentiality provisions of Section 1500 of the NERC Rules of Procedure.
38. It is understood that SERC shall audit the progress of mitigation plans and any other remedies of this Agreement, including, but not limited to site inspection, interviews, and request other documentation to validate progress and/or completion of the mitigation plans and any other remedies of this Settlement Agreement. SERC shall reasonably coordinate audits and information requests with the EKPC related to this Settlement Agreement.
39. Failure to make a timely penalty payment or to comply with any of the terms and conditions agreed to herein, or any other conditions of this Agreement, shall be deemed to be either the same alleged violations that initiated this settlement and/or additional violation(s) and may subject EKPC to new or additional enforcement, penalty or sanction actions in accordance with the NERC Rules of Procedure.
40. If EKPC does not make the monetary penalty payment above at the times agreed by the parties, interest payable to SERC will begin to accrue pursuant to the Commission's regulations at 18 C.F.R. § 35.19(a)(2)(iii) from the date that payment is due, in addition to the penalty specified above.

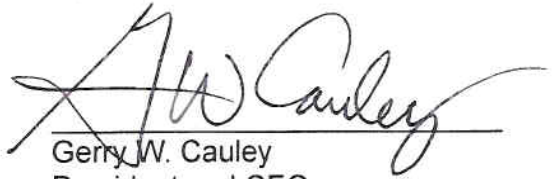
## V. ADDITIONAL TERMS

41. The signatories to the Agreement agree that they enter into the Agreement voluntarily and that, other than the recitations set forth herein, no tender, offer or promise of any kind by any member, employee, officer, director, agent or representative of SERC or EKPC has been made to induce the signatories or any other party to enter into the Agreement.
42. 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 EKPC 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 EKPC including any changes to the settlement specified by NERC. If a settlement cannot be reached, the enforcement process shall continue to conclusion. If NERC approves the settlement, NERC will (i) report the approved settlement to the Commission for the Commission's review and approval by order or operation of law and (ii) publicly post the alleged violation and the terms provided for in the settlement.
43. The Agreement will be submitted to the Commission and will be subject to Commission review pursuant to section 39.7 of the Commission's regulations.
44. This Agreement shall become effective upon NERC and the Commission's approval of the Agreement.
45. EKPC agrees that this Agreement, when approved by NERC and the Commission, shall represent a final settlement of all matters set forth herein and EKPC waives its right to further hearings and appeal, unless and only to the extent that EKPC contends that any NERC or Commission action on the Agreement contains one or more material modifications to the Agreement. SERC reserves all rights to initiate enforcement, penalty or sanction actions against EKPC in accordance with the NERC Rules of Procedure in the event that EKPC fails to comply with the mitigation plan and compliance program agreed to in this Agreement. In the event EKPC fails to comply with any of the stipulations, remedies, sanctions or additional terms, as set forth in this Agreement, SERC will initiate enforcement, penalty, or sanction actions against EKPC to the maximum extent allowed by the NERC Rules of Procedure, up to the maximum statutorily allowed penalty. EKPC shall retain all rights to defend against such enforcement actions, also according to the NERC Rules of Procedure.

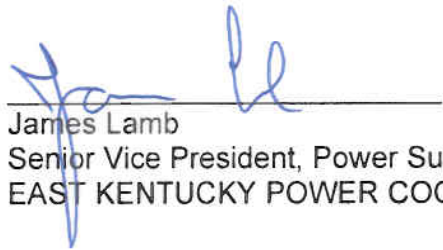
46. Each of the undersigned warrants that he or she is an authorized representative of the entity designated, is authorized to bind such entity and accepts the Agreement on the 'entity's behalf.
47. The undersigned representative of each party affirms that he or she has read the Agreement, that all of the matters set forth in the Agreement are true and correct to the best of his or her knowledge, information and belief, and that he or she understands that the Agreement is entered into by such party in express reliance on those representations, provided, however, that such affirmation by each 'party's representative shall not apply to the other 'party's statements of position set forth in Section III of this Agreement.
48. The Agreement may be signed in counterparts.
49. This Agreement is executed in duplicate, each of which so executed shall be deemed to be an original.

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

Agreed to and accepted:

  
\_\_\_\_\_  
Gerry W. Cauley  
President and CEO  
SERC RELIABILITY CORPORATION

10/3/2008  
Date

  
\_\_\_\_\_  
James Lamb  
Senior Vice President, Power Supply  
EAST KENTUCKY POWER COOPERATIVE

9/25/08  
Date

## **Attachment c**

**EKPC's certifications of completion of the  
mitigating actions for the alleged violations of  
BAL-001-0 R1 and BAL-005-0 R2 dated March 9,  
2009**

## Certification of a Completed Mitigation Plan

### SERC Reliability Corporation Violation Mitigation Plan Closure Form

Name of Registered Entity submitting certification: East Kentucky Power Cooperative

Date of Certification: 3/9/2009

Name of Standard and the Requirement(s) of mitigated violation(s): BAL-001 R1

SERC Tracking Number (contact SERC if not known): 08-013

NERC Violation ID Number (if assigned): SERC200800099

**Date of completion of the Mitigation Plan:** 12/31/2008

Summary of all actions described in Section IV Paragraph 31 of the relevant Settlement:

1. Maintain the required level of Regulating Reserve.
2. Make schedule changes as necessary to help make Regulating Reserve available as discussed in Paragraph 21 of the Settlement Agreement.
3. Utilize combustion turbines in AGC mode as necessary to follow the non-conforming load and schedule ramps as discussed in Paragraph 21 of the Settlement Agreement.
4. Implement a long-term solution of committing and dispatching combustion turbines in load following modes responsive to AGC to ensure compliance with CPS1 and the terms of the Settlement Agreement.
5. Achieve monthly CPS1 values greater than or equal to 110% pursuant to Paragraph 36 of the Settlement Agreement.

Description of the information provided to SERC for their evaluation The required mitigating actions described in Section IV Paragraph 31 of the relevant Settlement, and the description of how each has been completed along with the listing of evidence provided to support closure, are listed below:

1. Maintain the required level of Regulating Reserve.
  - a. The required level of Regulating Reserve is specified in BAL-005 as enough to meet the CPS. EKPC has exceeded the CPS requirements during this time period and as such maintained the required level of Regulating Reserve. This was accomplished from day one of the observation period.
  - b. CPS Reports for the time period have been provided to SERC as evidence in a zip file (2008\_cps.zip).



2. Make schedule changes as necessary to help make Regulating Reserve available as discussed in Paragraph 21 of the Settlement Agreement.
  - a. Paragraph 21 references EKPC's work with its Non-Conforming Load to modify its operations. EKPC has tracked the relationship between the non-conforming load and its regulating needs. A target schedule was developed and provided to the non-conforming load operator. Adherence to this schedule was measured and feedback provided. The calendar was provided on April 14, 2009. Monitoring and feedback was provided starting at that time.
  - b. Paragraph 21 also references EKPC initiating "more efficient ramp availability during loading and unloading of schedules other than the top of the hours." EKPC has scheduled imports to start and stop at irregular times as necessary and as neighboring BAs permit to more closely match resources to changes in load. This change was implemented prior to the settlement agreement.
  - c. A copy of a communication with the customer indicating receipt and implementation of the calendar has been provided to SERC as evidence (CommunicationWithNCL.pdf). An example of the calendar schedule has been provided to SERC as evidence (CalendarForGallatin.pdf). Also provided was a transaction tag where a non-traditional schedule was used to meet regulation needs (TagForHalfHourSchedule.pdf).
  
3. Utilize combustion turbines in AGC mode as necessary to follow the non-conforming load and schedule ramps as discussed in Paragraph 21 of the Settlement Agreement.
  - a. EKPC has incorporated into its day-ahead planning process the evaluation of regulating needs based on the examination of current month-to-date CPS statistics. If the month-to-date CPS1 is lower than desired, combustion turbines, in AGC mode, will be dispatched to provide for the regulation needs. This decision is made at the supervisory level during the day-ahead planning process.
  - b. As evidence, the CT generation for a sample day whereby this decision was made was provided (GenopPerformance\_Apr08.pdf). April 17, 2008, EKPC had recognized the need to dispatch CTs in AGC mode to improve the month-to-date CPS1 statistic. As can be seen in the post-analysis report provided, EKPC committed and operated CTs for regulation on this day despite this being a relatively low-load day where CTs would not normally have been dispatched. A copy of the modified procedure has been submitted as evidence.

4. Implement a long-term solution of committing and dispatching combustion turbines in load following modes responsive to AGC to ensure compliance with CPS1 and the terms of the Settlement Agreement.
  - a. EKPC has implemented a continuing strategy of daily evaluating the CPS1 month-to-date statistic and never allowing that to remain below 100% for the month. The statistic is evaluated and CTs dispatched in AGC mode as necessary to ensure long-term compliance with CPS1.
  - b. On February 9, 2008, the need to an improved CPS1 statistic for the month was identified. This evidence of this identification was shown in the attached communication by management (February2008 CPS1 Communication.pdf). The situation was evaluated and CTs dispatched in AGC mode in the following weeks to improve the statistic as can be seen in the provided post-analysis report (GenopPerformance\_Feb09.pdf).
5. Beginning with the month of May 2008, and in each month thereafter until the Settlement Agreement is terminated pursuant to Paragraph 36, achieve monthly CPS1 values greater than or equal to 110%.
  - a. Beginning with the month of May 2008, EKPC achieved the following values for its monthly CPS1 and rolling 12-month average CPS1:

Month	Monthly CPS1	12-month Average CPS1
May 2008	129.5	97.7
June 2008	123.2	98.9
July 2008	137.5	101.8
August 2008	138.4	106.8
September 2008	120.6	106.3
October 2008	155.4	110.8
November 2008	128.2	113.9
December 2008	139.1	117.6

- b. EKPC provided SERC with a zip file (filename 2008\_CPS.zip) containing spreadsheets of its CPS calculations for 2008 and has self-certified its monthly CPS1 reports submitted through the SERC Portal
- c. Paragraph 36 of the Settlement Agreement states that the Agreement "shall terminate on the last day of the month that EKPC's rolling 12-month average CPS1 exceeds 100% for six (6) consecutive months, which six month period may commence prior to the effective date of this Agreement." As shown in the chart above, EKPC achieved values for its rolling 12-month average CPS1 that exceed 100% for the six (6) consecutive month period from July 1, 2008 through December 31, 2008, and therefore EKPC

has satisfied its obligation under the Agreement set forth in Paragraph 36 as of December 31, 2008.

I certify that the mitigating actions for the above-named violations have been completed on the date shown above. In doing so, I certify that all required mitigating actions described in Section IV Paragraph 31 of the relevant Settlement 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: Chuck Dugan  
Title: Manager, Power Supply Operations  
Entity: East Kentucky Power Cooperative  
Email: Chuck.Dugan@ekpc.coop  
Phone: (859) 745-9650

Designated Signature Chuck Dugan Date 3-10-09



## Certification of a Completed Mitigation Plan

### SERC Reliability Corporation Violation Mitigation Plan Closure Form

Name of Registered Entity submitting certification: East Kentucky Power Cooperative

Date of Certification: 3/9/2009

Name of Standard and the Requirement(s) of mitigated violation(s): BAL-005 R2

SERC Tracking Number (contact SERC if not known): 08-019

NERC Violation ID Number (if assigned): SERC200800106

**Date of completion of the Mitigation Plan:** 12/31/2008

Summary of all actions described in Section IV Paragraph 31 of the relevant Settlement:

1. Maintain the required level of Regulating Reserve.
2. Make schedule changes as necessary to help make Regulating Reserve available as discussed in Paragraph 21 of the Settlement Agreement.
3. Utilize combustion turbines in AGC mode as necessary to follow the non-conforming load and schedule ramps as discussed in Paragraph 21 of the Settlement Agreement.
4. Implement a long-term solution of committing and dispatching combustion turbines in load following modes responsive to AGC to ensure compliance with CPS1 and the terms of the Settlement Agreement.
5. Achieve monthly CPS1 values greater than or equal to 110% pursuant to Paragraph 36 of the Settlement Agreement.

Description of the information provided to SERC for their evaluation The required mitigating actions described in Section IV Paragraph 31 of the relevant Settlement, and the description of how each has been completed along with the listing of evidence provided to support closure, are listed below:

1. Maintain the required level of Regulating Reserve.
  - a. The required level of Regulating Reserve is specified in BAL-005 as enough to meet the CPS. EKPC has exceeded the CPS requirements during this time period and as such maintained the required level of Regulating Reserve. This was accomplished from day one of the observation period.
  - b. CPS Reports for the time period have been provided to SERC as evidence in a zip file (2008\_cps.zip).

2. Make schedule changes as necessary to help make Regulating Reserve available as discussed in Paragraph 21 of the Settlement Agreement.
  - a. Paragraph 21 references EKPC's work with its Non-Conforming Load to modify its operations. EKPC has tracked the relationship between the non-conforming load and its regulating needs. A target schedule was developed and provided to the non-conforming load operator. Adherence to this schedule was measured and feedback provided. The calendar was provided on April 14, 2009. Monitoring and feedback was provided starting at that time.
  - b. Paragraph 21 also references EKPC initiating "more efficient ramp availability during loading and unloading of schedules other than the top of the hours." EKPC has scheduled imports to start and stop at irregular times as necessary and as neighboring BAs permit to more closely match resources to changes in load. This change was implemented prior to the settlement agreement.
  - c. A copy of a communication with the customer indicating receipt and implementation of the calendar has been provided to SERC as evidence (CommunicationWithNCL.pdf). An example of the calendar schedule has been provided to SERC as evidence (CalendarForGallatin.pdf). Also provided was a transaction tag where a non-traditional schedule was used to meet regulation needs (TagForHalfHourSchedule.pdf).
  
3. Utilize combustion turbines in AGC mode as necessary to follow the non-conforming load and schedule ramps as discussed in Paragraph 21 of the Settlement Agreement.
  - a. EKPC has incorporated into its day-ahead planning process the evaluation of regulating needs based on the examination of current month-to-date CPS statistics. If the month-to-date CPS1 is lower than desired, combustion turbines, in AGC mode, will be dispatched to provide for the regulation needs. This decision is made at the supervisory level during the day-ahead planning process.
  - b. As evidence, the CT generation for a sample day whereby this decision was made was provided (GenopPerformance\_Apr08.pdf). April 17, 2008, EKPC had recognized the need to dispatch CTs in AGC mode to improve the month-to-date CPS1 statistic. As can be seen in the post-analysis report provided, EKPC committed and operated CTs for regulation on this day despite this being a relatively low-load day where CTs would not normally have been dispatched. A copy of the modified procedure has been submitted as evidence.



4. Implement a long-term solution of committing and dispatching combustion turbines in load following modes responsive to AGC to ensure compliance with CPS1 and the terms of the Settlement Agreement.
  - a. EKPC has implemented a continuing strategy of daily evaluating the CPS1 month-to-date statistic and never allowing that to remain below 100% for the month. The statistic is evaluated and CTs dispatched in AGC mode as necessary to ensure long-term compliance with CPS1.
  - b. On February 9, 2008, the need to an improved CPS1 statistic for the month was identified. This evidence of this identification was shown in the attached communication by management (February2008 CPS1 Communication.pdf). The situation was evaluated and CTs dispatched in AGC mode in the following weeks to improve the statistic as can be seen in the provided post-analysis report (GenopPerformance\_Feb09.pdf).
5. Beginning with the month of May 2008, and in each month thereafter until the Settlement Agreement is terminated pursuant to Paragraph 36, achieve monthly CPS1 values greater than or equal to 110%.
  - a. Beginning with the month of May 2008, EKPC achieved the following values for its monthly CPS1 and rolling 12-month average CPS1:

Month	Monthly CPS1	12-month Average CPS1
May 2008	129.5	97.7
June 2008	123.2	98.9
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September 2008	120.6	106.3
October 2008	155.4	110.8
November 2008	128.2	113.9
December 2008	139.1	117.6

- b. EKPC provided SERC with a zip file (filename 2008\_CPS.zip) containing spreadsheets of its CPS calculations for 2008 and has self-certified its monthly CPS1 reports submitted through the SERC Portal
    - c. Paragraph 36 of the Settlement Agreement states that the Agreement "shall terminate on the last day of the month that EKPC's rolling 12-month average CPS1 exceeds 100% for six (6) consecutive months, which six month period may commence prior to the effective date of this Agreement." As shown in the chart above, EKPC achieved values for its rolling 12-month average CPS1 that exceed 100% for the six (6) consecutive month period from July 1, 2008 through December 31, 2008, and therefore EKPC

has satisfied its obligation under the Agreement set forth in Paragraph 36 as of December 31, 2008.

I certify that the mitigating actions for the above-named violations have been completed on the date shown above. In doing so, I certify that all required mitigating actions described in Section IV Paragraph 31 of the relevant Settlement 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: Chuck Dugan  
Title: Manager, Power Supply Operations  
Entity: East Kentucky Power Cooperative  
Email: Chuck.Dugan@ekpc.coop  
Phone: (859) 745-9650

Designated Signature Chuck Dugan Date 3-10-09

## **Attachment d**

**SERC's statement regarding completion of the  
Settlement Agreement mitigating actions, dated  
March 10, 2009**



**Statement of SERC Reliability Corporation Compliance Staff Regarding Completion of Settlement Mitigating Actions**

Registered Entity: East Kentucky Power Cooperative (EKPC)  
SERC Tracking ID: 08-019  
NERC Violation No: SERC200800099  
NERC Mitigation Plan ID: Mitigating Actions in Settlement  
Standard: BAL-001-0  
Requirement: R1

**Violation Summary:**

Entity did not dispatch enough regulating units in order to maintain adequate Regulating Reserve that can be controlled by AGC to meet the Control Performance Standard. For the months of February, March, and April 2008, the entity's 12-month average CPS1 was 98.8%, 96.2%, and 96.2% respectively. Therefore, the entity is found in violation of R1 of BAL-001-0.

**Settlement Plan Summary of Mitigating Actions:**

1. Maintain the required level of Regulating Reserve.
2. Make schedule changes as necessary to help make Regulating Reserve available as discussed in Paragraph 21 of the Settlement Agreement.
3. Utilize combustion turbines in AGC mode as necessary to follow the nonconforming load and schedule ramps as discussed in Paragraph 21 of the Settlement Agreement.
4. Implement a long-term solution of committing and dispatching combustion Turbines in load following modes responsive to AGC to ensure compliance with CPS 1 and the terms of the Settlement Agreement.
5. Achieve monthly CPS1 values greater than or equal to 110% pursuant to Paragraph 36 of the Settlement Agreement.

**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:**

EKPC certified on March 9, 2009 that the subject Mitigating Actions in the Settlement were completed on December 31, 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:**

EKPC submitted and SERC Staff reviewed the following evidence in support of its certification that its Mitigating Actions in the Settlement were completed in accordance with its terms:

1. Maintain the required level of Regulating Reserve.
  - a. The required level of Regulating Reserve is specified in BAL-005 as enough to meet the CPS. EKPC has exceeded the CPS requirements during this time period and as such maintained the required level of Regulating Reserve. This was accomplished from day one of the observation period.
  - b. CPS Reports for the time period are provided as evidence in a zip file (2008\_cps.zip).
2. Make schedule changes as necessary to help make Regulating Reserve available as discussed in Paragraph 21 of the Settlement Agreement.
  - a. Paragraph 21 references EKPC's work with its Non-Conforming Load to modify its operations. EKPC has tracked the relationship between the non-conforming load and its regulating needs. A target schedule was developed and provided to the non-conforming load operator. Adherence to this schedule was measured and feedback provided. The calendar was provided on April 14, 2009. Monitoring and feedback was provided starting at that time.
  - b. Paragraph 21 also references EKPC initiating "more efficient ramp availability during loading and unloading of schedules other than the top of the hours." EKPC has scheduled imports to start and stop at irregular times as necessary and as neighboring BAs permit to more closely match resources to changes in load. This change was implemented prior to the settlement agreement.
  - c. EKPC submitted a copy of a communication with the customer indicating receipt and implementation of the calendar (CommunicationWithNCL.pdf). An example of the calendar schedule has been provided as evidence (CalendarForGallatin.pdf). Also provided was a transaction tag where a non-traditional schedule was used to meet regulation needs (TagForHalfHourSchedule.pdf).
3. Utilize combustion turbines in AGC mode as necessary to follow the non-conforming load and schedule ramps as discussed in Paragraph 21 of the Settlement Agreement.
  - a. EKPC has incorporated into its day-ahead planning process the evaluation of regulating needs based on the examination of current month-to-date CPS statistics. If the month-to-date CPS1 is lower than desired, combustion turbines, in AGC mode, will be dispatched to provide for the regulation needs. This decision is made at the supervisory level during the day-ahead planning process.
  - b. As evidence, the CT generation for a sample day whereby this decision was made was provided (GenopPerformance\_Apr08.pdf). In April 17, 2008, EKPC had recognized the need to dispatch CTs in AGC mode to improve the month-to-date CPS 1 statistic. As can be seen in the post-analysis report provided, EKPC committed and operated CTs for regulation on this day despite this being a relatively low-load day where CTs would not normally have been dispatched. A copy of the modified procedure has been submitted as evidence.
4. Implement a long-term solution of committing and dispatching combustion turbines in load following modes responsive to AGC to ensure compliance with CPS1 and the terms of the Settlement Agreement.

- a. EKPC has implemented a continuing strategy of daily evaluating the CPS1 month-to-date statistic and never allowing that to remain below 100% for the month. The statistic is evaluated and CTs dispatched in AGC mode as necessary to ensure long-term compliance with CPS1.
  - b. On February 9, 2008, the need to an improved CPS1 statistic for the month was identified. This evidence of this identification was shown in the attached communication by management (February2008 CPS1 Communication.pdf). The situation was evaluated and CTs dispatched in AGC mode in the following weeks to improve the statistic as can be seen in the provided post-analysis report (GenopPerformance\_Feb09.pdf).
5. Beginning with the month of May 2008, and in each month thereafter until the Settlement Agreement is terminated pursuant to Paragraph 36, achieve monthly CPS1 values greater than or equal to 110%.
- a. Beginning with the month of May 2008, EKPC achieved the following values for its monthly CPS1 and rolling 12-month average CPS1:

Month	Monthly CPS1	12-month Average CPS1
May 2008	129.5	97.7
June 2008	123.2	98.9
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November 2008	128.2	113.9
December 2008	139.1	117.6

- b. EKPC provided SERC with a zip file (filename 2008\_CPS.zip) containing spreadsheets of its CPS calculations for 2008 and has self-certified its monthly CPS1 reports submitted through the SERC Portal
- c. Paragraph 36 of the Settlement Agreement states that the Agreement “shall terminate on the last day of the month that EKPC’s rolling 12-month average CPS1 exceeds 100% for six (6) consecutive months, which six month period may commence prior to the effective date of this Agreement.” As shown in the chart above, EKPC achieved values for its rolling 12-month average CPS1 that exceed 100% for the six (6) consecutive month period from July 1, 2008 through December 31, 2008, and therefore EKPC has satisfied its obligation under the Agreement set forth in Paragraph 36 as of December 31, 2008.

Settlement Summary evidence reference documents:

[CT Load Following Costs.xls 2008 CPS.zip](#)

[PSORD Policy 3-10-09.pdf](#)

[GenopPerformance\\_Feb09 3-10-09.pdf](#)

[GenopPerformance\\_Apr08 3-10-09.pdf](#)

[February2008 CPS1 Communication 3-10-09.pdf](#)

[TagForHalfHourSchedule 3-10-09.pdf](#)

[CommunicationWithNCL 3-10-09.pdf](#)

[Excerpt from Power Supply Operations Responsibility Document.doc](#)

**Conclusion:**



On March 10, 2009, SERC Reliability Corporation Compliance Staff ("SERC Staff") completed its review of the evidence submitted by EKPC in support of its Certification of Completion of the Mitigating Actions in the Settlement. Based on its review of the evidence submitted, SERC Staff verifies that, in its professional judgment, all non-monetary mitigation actions in the Settlement have been completed and EKPC is in compliance with the subject Reliability Standard Requirements.

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

**Respectfully Submitted,**

Mickey Bellard  
Mike Vastano

**Statement of SERC Reliability Corporation Compliance Staff Regarding Completion of Settlement Mitigating Actions**

Registered Entity: East Kentucky Power Cooperative (EKPC)  
SERC Tracking ID: 08-019  
NERC Violation No: SERC200800106  
NERC Mitigation Plan ID: Mitigating Actions in Settlement  
Standard: BAL-005-0  
Requirement: R2

**Violation Summary:**

Entity did not dispatch enough regulating units in order to maintain adequate Regulating Reserve that can be controlled by AGC to meet the Control Performance Standard. For the months of February, March, and April 2008, the entity's 12-month average CPS1 was 98.8%, 96.2%, and 96.2% respectively. Therefore, the entity is found in violation of R2 of BAL-005.

**Settlement Plan Summary of Mitigating Actions:**

1. Maintain the required level of Regulating Reserve.
2. Make schedule changes as necessary to help make Regulating Reserve available as discussed in Paragraph 21 of the Settlement Agreement.
3. Utilize combustion turbines in AGC mode as necessary to follow the nonconforming load and schedule ramps as discussed in Paragraph 21 of the Settlement Agreement.
4. Implement a long-term solution of committing and dispatching combustion Turbines in load following modes responsive to AGC to ensure compliance with CPS 1 and the terms of the Settlement Agreement.
5. Achieve monthly CPS1 values greater than or equal to 110% pursuant to Paragraph 36 of the Settlement Agreement.

**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:**

EKPC certified on March 9, 2009 that the subject Mitigating Actions in the Settlement were completed on December 31, 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:**

EKPC submitted and SERC Staff reviewed the following evidence in support of its certification that its Mitigating Actions in the Settlement were completed in accordance with its terms:

1. Maintain the required level of Regulating Reserve.
  - a. The required level of Regulating Reserve is specified in BAL-005 as enough to meet the CPS. EKPC has exceeded the CPS requirements during this time period and as such maintained the required level of Regulating Reserve. This was accomplished from day one of the observation period.
  - b. CPS Reports for the time period are provided as evidence in a zip file (2008\_cps.zip).
2. Make schedule changes as necessary to help make Regulating Reserve available as discussed in Paragraph 21 of the Settlement Agreement.
  - a. Paragraph 21 references EKPC's work with its Non-Conforming Load to modify its operations. EKPC has tracked the relationship between the non-conforming load and its regulating needs. A target schedule was developed and provided to the non-conforming load operator. Adherence to this schedule was measured and feedback provided. The calendar was provided on April 14, 2009. Monitoring and feedback was provided starting at that time.
  - b. Paragraph 21 also references EKPC initiating "more efficient ramp availability during loading and unloading of schedules other than the top of the hours." EKPC has scheduled imports to start and stop at irregular times as necessary and as neighboring BAs permit to more closely match resources to changes in load. This change was implemented prior to the settlement agreement.
  - c. EKPC submitted a copy of a communication with the customer indicating receipt and implementation of the calendar (CommunicationWithNCL.pdf). An example of the calendar schedule has been provided as evidence (CalendarForGallatin.pdf). Also provided was a transaction tag where a non-traditional schedule was used to meet regulation needs (TagForHalfHourSchedule.pdf).
3. Utilize combustion turbines in AGC mode as necessary to follow the non-conforming load and schedule ramps as discussed in Paragraph 21 of the Settlement Agreement.
  - a. EKPC has incorporated into its day-ahead planning process the evaluation of regulating needs based on the examination of current month-to-date CPS statistics. If the month-to-date CPS1 is lower than desired, combustion turbines, in AGC mode, will be dispatched to provide for the regulation needs. This decision is made at the supervisory level during the day-ahead planning process.
  - b. As evidence, the CT generation for a sample day whereby this decision was made was provided (GenopPerformance\_Apr08.pdf). In April 17, 2008, EKPC had recognized the need to dispatch CTs in AGC mode to improve the month-to-date CPS 1 statistic. As can be seen in the post-analysis report provided, EKPC committed and operated CTs for regulation on this day despite this being a relatively low-load day where CTs would not normally have been dispatched. A copy of the modified procedure has been submitted as evidence.
4. Implement a long-term solution of committing and dispatching combustion turbines in load following modes responsive to AGC to ensure compliance with CPS1 and the terms of the Settlement Agreement.



- a. EKPC has implemented a continuing strategy of daily evaluating the CPS1 month-to-date statistic and never allowing that to remain below 100% for the month. The statistic is evaluated and CTs dispatched in AGC mode as necessary to ensure long-term compliance with CPS1.
  - b. On February 9, 2008, the need to an improved CPS1 statistic for the month was identified. This evidence of this identification was shown in the attached communication by management (February2008 CPS1 Communication.pdf). The situation was evaluated and CTs dispatched in AGC mode in the following weeks to improve the statistic as can be seen in the provided post-analysis report (GenopPerformance\_Feb09.pdf).
5. Beginning with the month of May 2008, and in each month thereafter until the Settlement Agreement is terminated pursuant to Paragraph 36, achieve monthly CPS1 values greater than or equal to 110%.
- a. Beginning with the month of May 2008, EKPC achieved the following values for its monthly CPS1 and rolling 12-month average CPS1:

Month	Monthly CPS1	12-month Average CPS1
May 2008	129.5	97.7
June 2008	123.2	98.9
July 2008	137.5	101.8
August 2008	138.4	106.8
September 2008	120.6	106.3
October 2008	155.4	110.8
November 2008	128.2	113.9
December 2008	139.1	117.6

- b. EKPC provided SERC with a zip file (filename 2008\_CPS.zip) containing spreadsheets of its CPS calculations for 2008 and has self-certified its monthly CPS1 reports submitted through the SERC Portal
- c. Paragraph 36 of the Settlement Agreement states that the Agreement “shall terminate on the last day of the month that EKPC’s rolling 12-month average CPS1 exceeds 100% for six (6) consecutive months, which six month period may commence prior to the effective date of this Agreement.” As shown in the chart above, EKPC achieved values for its rolling 12-month average CPS1 that exceed 100% for the six (6) consecutive month period from July 1, 2008 through December 31, 2008, and therefore EKPC has satisfied its obligation under the Agreement set forth in Paragraph 36 as of December 31, 2008.

Settlement Summary evidence reference documents:

[CT Load Following Costs.xls 2008 CPS.zip](#)

[PSORD Policy 3-10-09.pdf](#)

[GenopPerformance\\_Feb09 3-10-09.pdf](#)

[GenopPerformance\\_Apr08 3-10-09.pdf](#)

[February2008 CPS1 Communication 3-10-09.pdf](#)

[TagForHalfHourSchedule 3-10-09.pdf](#)

[CommunicationWithNCL 3-10-09.pdf](#)

[Excerpt from Power Supply Operations Responsibility Document.doc](#)

**Conclusion:**



On March 10, 2009, SERC Reliability Corporation Compliance Staff ("SERC Staff") completed its review of the evidence submitted by EKPC in support of its Certification of Completion of the Mitigating Actions in the Settlement. Based on its review of the evidence submitted, SERC Staff verifies that, in its professional judgment, all non-monetary mitigation actions in the Settlement have been completed and EKPC is in compliance with the subject Reliability Standard Requirements.

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

**Respectfully Submitted,**

Mickey Bellard  
Mike Vastano



## **Attachment e**

### **Notice of Filing**

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

East Kentucky Power Cooperative

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

NOTICE OF FILING  
November 13, 2009

Take notice that on November 13, 2009, the North American Electric Reliability Corporation (NERC) filed a Notice of Penalty regarding East Kentucky Power Cooperative 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