



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 Union Power Partners, L.P.,  
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 Union Power Partners, L.P., NERC Registry ID NCR01354,<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 Union Power Partners, L.P. (UPP) have entered into a Settlement Agreement in which UPP has agreed to the proposed financial penalty of \$10,000 to be assessed to UPP, 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 CIP-001-1, Requirement (R) 4 and PRC-005-1 R1 at issue in this Notice of Penalty. Accordingly, the alleged violations identified as NERC Violation Tracking Identification Numbers SERC200800092 and SERC200800093 are being filed in accordance with the NERC Rules of Procedure and the CMEP.

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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 Union Power Partners, L.P. was included on the NERC Compliance Registry as a Generator Operator and a Generator Owner and was subject to the requirements of NERC Reliability Standards CIP-001-1 and PRC-005-1.

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

### 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 24, 2008, by and between SERC and UPP, 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.

Regional Entity	Registered Entity	NOC ID	NERC Violation ID	Reliability Std.	Req. (R)	VRF	Total Penalty (\$)
SERC	Union Power Partners, L.P.	NOC-126	SERC200800092	CIP-001-1	4	Medium	2,500
SERC	Union Power Partners, L.P.	NOC-126	SERC200800093	PRC-005-1	1	High <sup>4</sup>	7,500

On January 29, 2008 through January 30, 2008, a scheduled compliance audit of UPP was conducted by SERC resulting in findings by the SERC Audit Team of possible violations of NERC Reliability Standards CIP-001-1 R4 and PRC-005-1 R1.

The purpose of Reliability Standard CIP-001-1 is to ensure that disturbances or unusual occurrences, suspected or determined to be caused by sabotage, shall be reported to the appropriate systems, governmental agencies, and regulatory bodies.

CIP-001-1 R4 requires an entity such as UPP to establish communications contacts, as applicable, with local Federal Bureau of Investigation (FBI) or Royal Canadian Mounted Police (RCMP) officials and develop reporting procedures as appropriate to its circumstances.

SERC Compliance Enforcement Staff states in the Settlement Agreement that it reviewed the findings of the SERC Audit Team, conducted telephone and e-mail inquiries with UPP and reviewed UPP's documentation. According to the Settlement Agreement, SERC Compliance Enforcement Staff concluded that UPP presented to the SERC Audit Team evidence of contact with the FBI dated January 18, 2008, but UPP was unable to produce evidence of the existence of contact with the FBI or reporting procedures prior to that date. As a result, SERC Compliance Enforcement Staff concluded that, during the course of the scheduled compliance audit completed on January 30, 2008, UPP as a Generator Operator was unable to demonstrate that it had established communications contact with the local FBI or that it had reporting procedures as required by CIP-001-1 R4. SERC Compliance Enforcement Staff initially found UPP in violation of CIP-001-1 R4 from June 18, 2007 (when the standards became enforceable) until January 18, 2008. However, based on additional evidence provided to SERC Compliance

<sup>4</sup> When NERC filed Violation Risk Factors (VRF) it originally assigned PRC-005-1 R1 a Medium VRF. The Commission approved the VRF as filed; however, it directed NERC to submit modifications. NERC submitted the modified High VRF and on August 6, 2007, the Commission approved the modified High VRF. Therefore, the Medium VRF for PRC-005-1 R1 was in effect from June 18, 2007 until August 6, 2007 when the High VRF became effective.

Enforcement Staff by UPP during settlement discussions and after the compliance audit, the issuance of a Notice of Alleged Violation and Proposed Penalty or Sanction (NAVAPS) and the May 29, 2008 guidance from NERC regarding evidence requirements for CIP-001-1 R4, SERC Compliance Enforcement Staff concluded that UPP was, in fact, compliant with CIP-001-1 R4, because UPP subsequently produced evidence in the content of an email communications dated May 29, 2007 that UPP had, as of June 18, 2007, Sabotage Procedures, a local FBI 24/7 contact number, and a policy that only General Counsel or designee would contact the FBI. Furthermore, based on NERC guidance for CIP-001-1, Requirement 4 established on May 29, 2008, SERC Compliance Enforcement Staff later determined that UPP's working FBI contact number and reporting policy referenced in its May 29, 2007 e-mail communication, constituted acceptable evidence of established communication with the FBI and an acceptable reporting protocol. However, SERC determined that UPP should be subject to sanction for its failure to produce evidence at the time of the regularly scheduled compliance audit. SERC assessed the alleged violation of CIP-001-1 R4 to have a "Medium" Violation Risk Factor (VRF).

The purpose of Reliability Standard PRC-005-1 is to ensure all transmission and generation Protection Systems affecting the reliability of the Bulk Electric System (BES) are maintained and tested.

PRC-005-1 R1 requires an entity such as UPP that owns a generation Protection System to have a Protection System maintenance and testing program for Protection Systems that affect the reliability of the bulk power system. The program shall include the following: maintenance and testing intervals and their basis; and a summary of maintenance and testing procedures.

According to the Settlement Agreement, SERC Compliance Enforcement Staff reviewed the findings of the SERC Audit Team, conducted telephone and e-mail inquiries with UPP and reviewed UPP's documentation. SERC Compliance Enforcement Staff concluded that UPP did not have a documented description of battery maintenance and testing intervals or the bases in its Protection System program, as required by PRC-005-1 R1. UPP presented, as evidence of its Protection System maintenance and testing program for the period from June 18, 2007 through the on-site Compliance Audit completed on January 30, 2008, documents referenced as Union Power Station "Protective Relay Test Plan" and Union Power Station "Policy and Procedures Document" dated December 11, 2007. While UPP provided examples that indicated battery maintenance was being performed, UPP could not provide documented evidence that its Protection System program included a description of maintenance and testing intervals and their bases for the batteries component of the Protection System program, as required by PRC-005-1 R1. UPP initiated corrective action and mitigated the alleged violation by adding documentation that specifically addresses battery testing intervals and their bases in UPP's main "Union Power Station PRC-005-1 Protection System Maintenance and Testing Policy and Procedure" document dated February 14, 2008, referencing appropriate IEEE standards. SERC Compliance Enforcement Staff determined the applicable violation duration associated with UPP's alleged violation of PRC-005-1 R1 was from June 18, 2007 through February 14, 2008, when the Mitigation Plan was completed. SERC assessed the alleged violation of PRC-005-1 R1 to have a "High" VRF.

The Settlement Agreement states that, on April 10, 2008, SERC issued a formal NAVAPS detailing the alleged violations of CIP-001-1 R4 and PRC- 005-1 R1. On May 9, 2008, UPP notified SERC that it contested the penalty associated with the alleged violation of PRC-005-1 and the alleged violation and penalty associated with CIP-001-1. In addition, UPP requested commencement of settlement discussions to resolve the allegations of these violations. The Settlement Agreement submitted with this Notice of Penalty filing is the result of those discussions.

Under the terms of the Settlement Agreement, SERC has assessed a \$2,500 penalty for the CIP-001-1 R4 alleged violation. While SERC Compliance Enforcement Staff eventually determined that UPP was in compliance with CIP-001-1 R4, SERC found it appropriate to assess a penalty for the alleged violation of CIP-001-1 R4, because UPP failed to demonstrate compliance at the time of the audit. Also, under the terms of the Settlement Agreement, SERC has assessed a \$7,500 penalty for the PRC-005-1 alleged violation. SERC Compliance Enforcement Staff concluded that UPP's insufficiently documented Protection System and maintenance program and undocumented FBI reporting procedures for its generating facilities represented a low actual and foreseen risk to bulk power system reliability.

Thus, according to SERC, its Compliance Enforcement Staff determined that, in this instance, the total penalty amount of \$10,000, as described above, bears a reasonable relation to the seriousness and duration of the alleged violations and takes into consideration UPP's voluntary efforts to remedy the alleged violations in a timely manner. Furthermore, based on UPP's cooperation, commitment to compliance and agreement to expeditiously reconcile this issue via settlement, SERC determined that the penalty of \$10,000 was appropriate.

#### **Status of Mitigation Plans<sup>5</sup>**

On February 21, 2008, prior to the issuance by SERC of a NAVAPS alleging a violation of CIP-001-1 R4, UPP submitted a Mitigation Plan, marked as completed as of February 21, 2008, documenting corrective action taken to mitigate the identified violation of CIP-001-1 R4. Specifically, UPP's Mitigation Plan to address the alleged violation of CIP-001-1 R4 identified that its documentation was not complete and did not show the establishment of contact with the FBI for the full time period covered by the audit. UPP explained an internal company audit was conducted in March 2007 and it was discovered at that time, that the original Sabotage Reporting Procedure contained within the Integrated Contingency Plan (ICP) did not contain the FBI contact information. The Environmental Health and Safety (EHS) person responsible for the ICP, later decided to specifically not include FBI contact information in the revised Sabotage Guideline, but to have the company General Counsel contacted for all Sabotage events and to only allow the General Counsel, or designee, access to the FBI contact information. As noted above, based on email communications dated May 29, 2007, UPP had, as of June 18, 2007, Sabotage Procedures, a local FBI 24/7 contact number, and a policy that only General Counsel or designee would contact the FBI.

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<sup>5</sup> See 18 C.F.R § 39.7(d)(7).

The Mitigation Plan required UPP to revise its documentation to show establishment of contact with the FBI. For purposes of settling any and all disputes regarding alleged violations of CIP-001-1 R4 arising from the January 29, 2008 audit of UPP, UPP took the following actions, as set forth in UPP's Mitigation Plan submitted to SERC on February 21, 2008:

- i. Fully documented its contact information for notifying the FBI to report relevant issues of sabotage; and
- ii. Included this information in the appropriate operating procedures, "UPS CIP-001-1 Sabotage Reporting Procedure" and Chapter 5.3 of the larger ICP "Sabotage Reporting Procedures."

UPP certified on March 10, 2008 to SERC that its Mitigation Plan was completed on February 21, 2008. SERC Compliance Enforcement Staff reviewed UPP's documentation, entitled "UPS CIP-001-1 Sabotage Reporting Procedure" and Chapter 5.3 of the larger ICP "Sabotage Reporting Procedures," that UPP presented to the SERC Audit Team. SERC Compliance Enforcement Staff determined the evidence showed that UPP established contact with the FBI on January 18, 2008 and that UPP's Sabotage Reporting Procedures referenced the chain of contacts designated for establishing and confirming FBI contact information. Thus, on April 8, 2008,<sup>6</sup> SERC verified UPP's Certification of Completion of the UPP Mitigation Plan associated with the alleged violation of CIP-001-1 R4 and confirmed that UPP was in compliance with this Reliability Standard Requirement.

UPP's Mitigation Plan to address the alleged violation of CIP-001-1 R4 was accepted by SERC on April 22, 2008 and was approved by NERC on May 21, 2008. The Mitigation Plan is designated as MIT-08-0551 and was submitted as non-public information to FERC on May 21, 2008 in accordance with FERC orders.

On February 15, 2008, prior to the issuance by SERC of a NAVAPS alleging a violation of PRC-005-1 R1, UPP submitted a Mitigation Plan, marked as completed as of February 14, 2008, documenting corrective action taken to mitigate the identified alleged violation of PRC-005-1 R1. Specifically, UPP's Mitigation Plan to address the alleged violation of PRC-005-1 R1 identified that its documentation was not complete and did not describe testing intervals and the bases for protective system batteries. Although UPP states the actual battery maintenance and testing was being conducted in accordance with suggested intervals and that it was included within the Union Power Station "Protective Relay Test Plan," the specific Battery Maintenance and Testing language describing battery testing intervals and the bases was not specifically itemized in the main Union Power "Policy and Procedures Document."

For purposes of settling any and all disputes regarding alleged violations of PRC-005-1, R1 arising from the January 29, 2008 audit of UPP, UPP took the following actions, as set forth in UPP's Mitigation Plan submitted to SERC on February 15, 2008:

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<sup>6</sup> Pursuant to SERC's compliance implementing procedures at the time of this review, SERC's Board Compliance Committee (BCC) was required to affirm the SERC Compliance Staff's acceptance of Mitigation Plans. The date of the BCC's affirmation of SERC Compliance Staff's actions establishes the date of Regional acceptance of Mitigation Plans. SERC Compliance Staff completed its acceptance and verification of the subject completed mitigation plans before the plans were taken to and affirmed by the SERC BCC at its monthly meeting on April 22, 2008.



- i. Fully documented its battery testing and maintenance intervals;
- ii. Fully documented the bases for its battery testing intervals; and
- iii. Added items i. and ii. to its Protection System Maintenance and Testing Program documentation.

UPP certified on March 10, 2008 to SERC that its Mitigation Plan was completed on February 14, 2008. SERC Staff reviewed UPP's documents specifically addressing battery testing intervals and their bases and confirmed that the information required by the Reliability Standard had been included in the main "Union Power Station PRC-005-1 Protection System Maintenance and Testing Policy and Procedure" document as the second bullet under Section 3.0 Procedure. Thus, on April 4, 2008,<sup>7</sup> SERC verified completion of the UPP mitigation of the alleged violation of PRC-005-1 R1 and confirmed that UPP was in compliance with this Reliability Standard Requirement. UPP's Mitigation Plan to address the alleged violation of PRC-005-1 R1 was accepted by SERC on April 22, 2008 and was approved by NERC on May 21, 2008. The Mitigation Plan is designated as MIT-08-0552 and was submitted as non-public information to FERC on May 21, 2008 in accordance with FERC orders.

### **Statement Describing the Proposed Penalty, Sanction or Enforcement Action Imposed<sup>8</sup>**

#### **Basis for Determination**

Taking into consideration the Commission's direction in Order No. 693, the NERC Sanction Guidelines and the Commission's July 3, 2008 Guidance Order,<sup>9</sup> the NERC BOTCC reviewed the Settlement Agreement and supporting documentation on February 8, 2009. The NERC BOTCC approved the Settlement Agreement, including SERC's imposition of a financial penalty of \$10,000 against UPP, in addition to other actions to correct its documentation as discussed above to promote prospective compliance required under the terms and conditions of the Settlement Agreement. In approving the Settlement Agreement, the NERC BOTCC reviewed of the applicable requirements of the Commission-approved Reliability Standards and the underlying facts and circumstances of the alleged violations at issue.

In reaching this determination, NERC BOTCC considered the following:

- the alleged violations reflected a deficiency in procedures and documentation;
- the time of actual non-compliance began during 2007 and was remedied early in 2008;
- UPP corrected its documentation to remedy the alleged violations in a timely manner prior to the issuance of a NAVAPS;
- UPP cooperated throughout the proceeding;

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<sup>7</sup> Pursuant to SERC's compliance implementing procedures at the time of this review, SERC's Board Compliance Committee (BCC) was required to affirm the SERC Compliance Staff's acceptance of Mitigation Plans. The date of the BCC's affirmation of SERC Compliance Staff's actions establishes the date of Regional acceptance of Mitigation Plans. SERC Compliance Staff completed its acceptance and verification of the subject completed mitigation plans before the plans were taken to and affirmed by the SERC BCC at its monthly meeting on April 22, 2008.

<sup>8</sup> See 18 C.F.R. § 39.7(d)(4).

<sup>9</sup> *North American Electric Reliability Corporation*, "Guidance Order on Reliability Notices of Penalty," 124 FERC ¶ 61,015 (2008).

- there was no prior violation history for UPP of this standard or a closely-related requirement;<sup>10</sup>
- there was no indication of an attempt by UPP to conceal any information;
- there was no indication that the alleged violations were intentional; and
- UPP agreed to expeditiously reconcile these issues via settlement.

Therefore, NERC approves the Settlement Agreement and believes that the proposed \$10,000 financial 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.

### **The Record of the Proceeding<sup>11</sup>**

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

- a) SERC Audit Screening Worksheets, included as Attachment a; and
- b) Settlement Agreement by and Between UPP and SERC, included as Attachment b.
  - i) Mitigation Plan designated as MIT-08-0552 submitted February 15, 2008, included in the Settlement Agreement as Appendix A-1;
  - ii) UPP's certification of completion of the Mitigation Plan MIT-08-0552, dated March 10, 2008, included in the Settlement Agreement as Appendix A-2;
  - iii) SERC's statement of verification that the Mitigation Plan MIT-08-0552 has been completed, dated April 4, 2008, included in the Settlement Agreement as Appendix A-3;
  - iv) Mitigation Plan designated as MIT-08-0551 submitted February 21, 2008, included in the Settlement Agreement as Appendix A-4;
  - v) UPP's certification of completion of the Mitigation Plan MIT-08-0551, dated March 10, 2008, included in the Settlement Agreement as Appendix A-5; and
  - vi) SERC's statement of verification that the Mitigation Plan MIT-08-0551 has been completed, dated April 8, 2008, included in the Settlement Agreement as Appendix A-6.

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<sup>10</sup> Union Power Partners, L.P. is the legal entity that owns the Union Power generating facility. Its general partner is an entity named "Union Power LLC", but that entity's sole function is to hold the general partner interest of Union Power Partners, L.P." NP09-13-000 addressed a violation of PER-002-0 R3.1 by the BA registered entity then-listed on the Compliance Registry as "Union Power Partners, LLC (PUPP)" with NCR\_ID 01355. The compliance registry has since been revised to correct the name to "Union Power Partners, L.P (PUPP)." The registered entity that is the party to the instant Settlement Agreement and the subject of NOC126 is "Union Power Partners, L.P." listed on the compliance registry as NCR\_ID01354 as a GO, GOP and PSE.

<sup>11</sup> See 18 C.F.R § 39.7(d)(5).

## **A Form of Notice Suitable for Publication<sup>12</sup>**

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

### **Notices and Communications**

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

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<sup>12</sup> See 18 C.F.R. § 39.7(d)(6).



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Union Power Partners, L.P.  
November 13, 2009  
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\*Persons to be included on the Commission's service list are indicated with an asterisk. NERC requests waiver of the Commission's rules and regulations to permit the inclusion of more than two people on the service list.

## Conclusion

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

Respectfully submitted,

Rick Sergel  
President and Chief Executive Officer  
David N. Cook  
Vice President and General Counsel  
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/s/ Rebecca J. Michael  
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cc: Union Power Partners, L.P.  
SERC Reliability Corporation

Attachments

## **Attachment a**

# **SERC Determination Summary**

## Screening Worksheet

Tracking Number
????

Entity Name
United Power Partners

Is Entity Registered?
Yes

Entity Contact
Larry Rodriguez

Entity Telephone Number
813-228-4532

Standard	Requirement
PRC-005-1	1

Is Issue Still Occurring?
No

Remedial Action Directive?

Date Issue Occurred

Date Issue/Event Reported

Method of Discovery
On site audit, 1/29-30/08

NERC 48-Hour Reportable?
No

Threat to BES?
No

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

Brief Description
Possible violation of requirement 1.

Detailed Description
<p>UPP was found by the audit team in Possible Violation of this requirement. The evidence presented was deficient in the following items:</p> <p>Station battery testing interval and basis were not indicated in the procedure. The team verified that testing was done. This is a documentation issue only.</p>

Prepared By	Date
Steve Gibe	1/30/08

## Screening Worksheet

Tracking Number
???

Entity Name
United Power Partners LP

Is Entity Registered?
Yes

Entity Contact
Larry Rodriguez

Entity Telephone Number
813-228-4532

Standard	Requirement
CIP-001-1	4

Is Issue Still Occurring?
No

Remedial Action Directive?

Date Issue Occurred

Date Issue/Event Reported
Not reported prior to audit

Method of Discovery
On site audit, 1/29-30/08

NERC 48-Hour Reportable?
No

Threat to BES?
No

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

Brief Description
Possible violation of requirement 4.

Detailed Description
<p>UPP was found by the audit team in Possible Violation of this requirement. The evidence presented was deficient in the following items:</p> <p>Evidence presented indicated the FBI was contacted on 01/18/08. A gap was identified in their documentation of compliance that existed prior to that date. The gap was identified by UPP in October 2007 but not reported.</p>

Prepared By	Date
Steve Gibe	1/30/08

## **Attachment b**

# **Settlement Agreement by and Between UPP and SERC**

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**SETTLEMENT AGREEMENT  
OF  
SERC RELIABILITY CORPORATION  
AND  
UNION POWER PARTNERS, L.P.**

**I. INTRODUCTION**

1. **SERC RELIABILITY CORPORATION** (“SERC”) and **UNION POWER PARTNERS, L.P. (“UPP”)** (NERC Compliance Registry ID# 01354) 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 a violation by UPP of the NERC Reliability Standards PRC-005-1, Requirement 1 and CIP-001-1, Requirement 4 (SERC Issue Tracking Nos. 08-003 and 08-004; NERC Violation ID Nos. SERC200800092 and SERC200800093).

**II. STIPULATION**

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

**Background**

3. UNION POWER PARTNERS, L.P. is a subsidiary of Entegra Power Group, LLC (“Entegra”). The UPP facility, Union Power Station, is a 2,200-megawatt combined-cycle facility located on 330 acres of land in Union County near El Dorado, Arkansas, and is located within the Entergy Arkansas service area near the geographic center of the Entergy Control Area.
4. Entegra’s corporate headquarters is based in Tampa, Florida. The Tampa headquarters is also home to a full-service energy marketing and trading organization which manages all of the commercial energy



activities associated with the Entegra energy assets. Entegra owns and operates two of the largest independent power plants in the United States. Both plants, similar in size and design, are natural gas-fired combined cycle facilities, each capable of producing approximately 2,200 MW of power and have been in commercial operation since 2003. The other facility, Gila River Power Station is located just southwest of Phoenix, Arizona.

### **Alleged Violations**

5. The relevant subset of the requirements of PRC-005-1, and the text thereof, are as follows:

R1. Each Transmission Owner and any Distribution Provider that owns a transmission Protection System and each Generator Owner that owns a generation Protection System shall have a Protection System maintenance and testing program for Protection Systems that affect the reliability of the BES. The program shall include:

R1.1. Maintenance and testing intervals and their basis;

R1.2. Summary of maintenance and testing procedures.

6. The relevant subset of the requirements of CIP-001-1, and the text thereof, are as follows:

R4. Each Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, and Load Serving Entity shall establish communications contacts, as applicable, with local Federal Bureau of Investigation (FBI) or Royal Canadian Mounted Police (RCMP) officials and develop reporting procedures as appropriate to their circumstances.

7. On January 29, 2008 through January 30, 2008, a scheduled compliance audit of UPP was conducted by SERC resulting in findings by the audit team of possible violations of NERC Reliability Standards PRC-005-1, Requirement 1 and CIP-001-1, Requirement 4.
8. SERC Compliance Enforcement Staff confirmed that UPP was listed on the NERC Compliance Registry as a Generator Operator and Generator Owner and that UPP, therefore, was subject to the Requirements of

NERC Reliability Standards PRC-005-1, Requirement 1, and CIP-001-1, Requirement 4.

9. SERC Compliance Enforcement Staff conducted a compliance assessment and reviewed information from the audit team along with the evidence submitted by UPP. SERC Compliance Enforcement Staff confirmed that UPP as a Generator Owner was expected to have a Protection System maintenance and testing program for Protection Systems that affect the reliability of the Bulk-Power System and that the program must include maintenance and testing intervals and their basis; and a summary of maintenance and testing procedures pursuant to NERC Reliability Standard PRC-005-1, Requirement 1. SERC Compliance Enforcement Staff confirmed further that UPP as a Generator Operator was expected to establish communications contacts with local FBI officials and to develop reporting procedures based on CIP-001-1, Requirement 4.
10. SERC Compliance Enforcement Staff reviewed the findings of the audit team, conducted telephone and e-mail inquiries with UPP, reviewed UPP's documentation and concluded that UPP did not have a documented description of battery maintenance and testing intervals or the bases in its Protection System program as required by PRC-005-1, Requirement 1 from June 18, 2007 (when the standards became enforceable) through the time of the audit completed on January 30, 2008. On February 15, 2008, prior to the issuance by SERC Compliance Enforcement Staff of a Notice of Alleged Violation and Proposed Penalty or Sanction ("NAVAPS") alleging a violation of PRC-005-1, Requirement 1, UPP submitted a Mitigation Plan, marked as completed as of February 14, 2008, documenting corrective action taken to mitigate the identified violation of PRC-005-1, Requirement 1. On March 10, 2008 UPP submitted to SERC a Certification of a Completed Mitigation Plan form certifying that the Mitigation Plan was completed on February 14, 2008.
11. In attempting to establish its compliance with CIP-001-1, Requirement 4, UPP presented to the SERC Audit Team evidence of contact with the FBI dated January 18, 2008 but could not produce evidence of the existence of contact with the FBI or reporting procedures prior to that date. Thus, SERC Compliance Enforcement Staff concluded that, during the course of the scheduled compliance audit completed on January 30, 2008, UPP as a Generator Operator was unable to demonstrate that UPP had established communications contact with the local FBI or that it had reporting procedures as required by CIP-001-1, Requirement 4 for the period from June 18, 2007 (when the standards became enforceable) to

January 18, 2008.<sup>1</sup> On February 21, 2008, prior to the issuance by SERC Compliance Enforcement Staff of a NAVAPS alleging a violation of CIP-001-1, Requirement 4, UPP submitted an early Mitigation Plan, marked as completed as of February 21, 2008, documenting corrective action taken to mitigate the identified violation of CIP-001-1, Requirement 4. On March 10, 2008 UPP submitted to SERC a Certification of a Completed Mitigation Plan form certifying that the Mitigation Plan was completed on February 21, 2008. .

12. In assessing the proposed penalty and sanctions associated with the violations of PRC-005-1, Requirement 1 and CIP-001-1, Requirement 4, SERC Compliance Enforcement Staff determined that UPP took immediate corrective action, promptly submitted Mitigation Plans, and certified Mitigation Plan closure prior to receiving formal notice of Alleged Violation and Proposed Penalty or Sanction communication from SERC Compliance Enforcement Staff.
13. On April 10, 2008, SERC issued a formal Notice of Alleged Violation and Proposed Penalty or Sanction detailing the Alleged Violations of PRC-005-1, Requirement 1 and CIP-001-1, Requirement 4.
14. On May 9, 2008, UPP submitted to SERC a Response to the NAVAPS in which UPP contested the alleged violation and penalty associated with CIP-001-1, Requirement 4 and the penalty associated with the alleged violation of PRC-005-1, Requirement 1. In the May 9, 2008 letter, UPP also requested commencement of settlement discussions to resolve the allegations of the subject violations. SERC Compliance Enforcement Staff acknowledged UPP's request for settlement and stayed any action on UPP's contest until settlement negotiations were concluded or otherwise terminated.

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<sup>1</sup> As discussed further in paragraph 16, UPP subsequently produced evidence in the content of an email communications dated May 29, 2007 that Entegra and UPP had, as of June 18, 2007, Sabotage Procedures, a local (appropriate to their Corporate EHS Department circumstances) FBI 24/7 contact number, and a policy that only General Counsel or designee would contact the FBI. Furthermore, based on NERC guidance for CIP-001-1, Requirement 4 established on May 29, 2008, SERC Compliance Enforcement Staff later determined that UPP's working FBI contact number and reporting policy referenced in its May 29, 2007 email communication, constituted acceptable evidence of established communication with the FBI and an acceptable reporting protocol.

### **III. PARTIES' SEPARATE REPRESENTATIONS**

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

15. In regards to PRC-005-1, Requirement 1, UPP presented as evidence of its Protection System maintenance and testing program for the period from June 18, 2007 through the period of the on-site Compliance Audit completed on January 30, 2008, documents referenced as Union Power Station "Protective Relay Test Plan" and Union Power Station "Policy and Procedures Document" dated December 11, 2007. To determine compliance with the standard, the SERC Audit Team and SERC Compliance Enforcement Staff reviewed the referenced documents. UPP could not provide documented evidence that its Protection System program included a description of maintenance and testing intervals and their bases for the batteries component of the Protection System program, as required by PRC-005-1, Requirement 1. While UPP was able to provide examples that indicated battery maintenance was being performed, documentation of such maintenance was not incorporated into the Protection System program with intervals and their bases as required by PRC-005-1, Requirement 1. UPP initiated corrective action and mitigated the violation by adding documentation that specifically addresses battery testing intervals and their bases in UPP's main "Union Power Station PRC-005-1 Protection System Maintenance and Testing Policy and Procedure" document dated February 14, 2008, referencing certain IEEE standards. UPP's Mitigation Plan addressing the alleged violation of PRC-005-1, Requirement 1 was completed on February 14, 2008, prior to SERC Compliance Enforcement Staff issuing a NAVAPS. In summary, SERC Compliance Enforcement Staff finds UPP in violation of PRC-005-1, Requirement 1 from June 18, 2007 until February 14, 2008.

16. In regards to CIP-001-1, Requirement 4, UPP presented as evidence the "UPS CIP-001-1 Sabotage Reporting Procedure" document and Chapter 5.3 of the larger Incident Contingency Plan (ICP) - "Sabotage Reporting Procedures" dated February 2, 2007. To determine compliance with the standard, the SERC Audit Team and SERC Compliance Enforcement Staff reviewed the referenced documents. During the compliance audit completed on January 30, 2008, UPP also provided a chain of e-mail messages describing UPP's attempts to contact the local FBI. The e-mail messages that UPP presented were dated December 12, 2007, January 3, 2008, and January 18, 2008. An e-mail message of January 18, 2008 identifies a local FBI contact; however, proper reporting procedures for the local UPP facilities were not incorporated in UPP's sabotage reporting

procedure document as required by the standard. Thus, during the on-site compliance audit completed on January 30, 2008, UPP was unable to produce evidence confirming that contact and appropriate reporting procedures had been established with the local FBI officials for the period from June 18, 2007 through January 18, 2008. During SERC Compliance Enforcement Staff's compliance assessment subsequent to the compliance audit, UPP provided further evidence in an e-mail dated May 29, 2007, forwarded and received on May 30, 2007 by UPP's General Counsel, Compliance Officer, Plant Managers and Operations Managers, indicating that only the General Counsel or designee would make FBI contact with a Phoenix, AZ number known by Environmental Health and Safety (EHS), Corporate Counsel, and UPP Plant Management. UPP took corrective action and mitigated the alleged violation by revising the "UPS CIP-001-1 Sabotage Reporting Procedure" document and Chapter 5.3 of the larger ICP - "Sabotage Reporting Procedures" to include written instructions for proper reporting procedures, chain of contacts, and to include confirmed local Little Rock, Arkansas FBI contact. The Mitigation Plan was completed on February 21, 2008, prior to SERC Compliance Enforcement Staff issuing any formal notice of Alleged Violation. In summary, SERC Compliance Enforcement Staff initially found UPP in violation of CIP-001-1, Requirement 4 from June 18, 2007 until January 18, 2008. However, based on the additional evidence provided to SERC Compliance Enforcement Staff by UPP subsequent to the compliance audit and the issuance of the NAVAPS, and during the course of settlement discussions, and the May 29, 2008 guidance from NERC regarding evidence requirements for CIP-001-1, Requirement 4, SERC Compliance Enforcement Staff concluded that UPP was, in fact, compliant with CIP-001-1, Requirement 4 but should be subject to sanction for its failure to produce evidence at the time of the regularly scheduled compliance audit.

17. Reliability Standard PRC-005-1, Requirement 1 has a VRF of "High".
18. SERC Compliance Enforcement Staff determined the applicable violation duration associated with UPP's violation of PRC-005-1, Requirement 1 was from June 18, 2007 through February 14, 2008 when the Mitigation Plan was completed. SERC Compliance Enforcement Staff determined the appropriate penalty amount to be \$7,500. SERC Compliance Enforcement Staff considered the gap in compliance to be a documentation issue and further considered that UPP took immediate corrective action, promptly submitted Mitigation Plans, and certified Mitigation Plan closure prior to receiving the NAVAPS communication

from SERC Compliance Enforcement Staff when determining an appropriate penalty amount.

19. Reliability Standard CIP-001-1, Requirement 4 has a VRF of "Medium" .
20. SERC Compliance Enforcement Staff determined the applicable violation duration associated with the violation of CIP-001-1, Requirement 4 was from June 18, 2007 through January 18, 2008. SERC Compliance Enforcement Staff determined the appropriate penalty amount to be \$2,500 based on guidance issued to Regional Entities by NERC on May 29, 2008 regarding acceptable evidence to demonstrate compliance with CIP-001-1, Requirement 4, and additional evidence UPP later supplied regarding its sabotage reporting procedures in existence prior to June 18, 2007, which together supported UPP's actual compliance with CIP-001-1, Requirement 4. While SERC Compliance Enforcement Staff ultimately determined UPP to be in compliance with CIP-001-1, Requirement 4, SERC Compliance Enforcement Staff levied the \$2,500 penalty based on UPP's failure to demonstrate compliance at the time of the audit.
21. While compliance with PRC-005-1, Requirement 1 by all registered Generator Owners and CIP-001-1, Requirement 4 by all registered Generator Operators is collectively important in maintaining Protection System maintenance to preserve the stability of the Bulk-Power System and in preventing sabotage events impacting the Bulk-Power System, SERC Compliance Enforcement Staff considered in this case that the actual and foreseen impact of UPP's documentation and procedural gaps in compliance did not represent a consequential risk to the reliability of the Bulk-Power System. In reaching this conclusion, SERC Compliance Enforcement Staff considered the limited scope of the violations and the prompt action by UPP to establish mechanisms to prevent recurrence.
22. In determining the proposed penalty for issuance of the NAVAPS, SERC Compliance Enforcement Staff determined that, in this instance, a single, aggregate penalty amount of \$10,000 (\$7,500 for the alleged violation of PRC-005, Requirement 1 and \$2,500 for UPP's failure to produce evidence of compliance with CIP-001, Requirement 4 at the time of the scheduled compliance audit) bears a reasonable relation to the seriousness and duration of the violations and takes into consideration UPP's voluntary efforts to remedy the violations in a timely manner. In determining the proposed penalty amount, SERC Compliance Enforcement Staff took into consideration UPP's cooperation throughout the proceeding, the absence of prior violation history for UPP of this standard or a closely-related requirement, no indication of an attempt by



UPP to conceal any information, and no indication that the violation was intentional.

23. 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 UPP**

24. UPP neither admits nor denies that the facts set forth and agreed to by the parties for purposes of this Agreement constitute violations of PRC-005-1, Requirement 1 and CIP-001-1, Requirement 4. UPP believes that it demonstrated good faith attempts to be in compliance with all of the reliability requirements. With respect to PRC-005-1, Requirement 1, UPP believes that it is important to note that UPP always conducted battery testing – at more frequent intervals than required, and that the alleged violation was for a failure to document the battery testing procedure only. With respect to CIP-001-1, Requirement 4, UPP believes that its corporate emergency response plan, which included FBI notification procedures, was sufficient to manage and properly report any suspected sabotage occurrences. In addition, when UPP did make contact with the FBI, no one at the local FBI office knew what the requirement was about.
25. Although UPP does not admit to, nor does it deny, the alleged violations, UPP has agreed to enter into this Agreement with SERC to avoid extended litigation with respect to the matters described or referred to herein, to avoid uncertainty, and to effectuate a complete and final resolution of the issues set forth herein. UPP agrees that this agreement is in the best interest of the parties and in the best interest of maintaining a reliable electric infrastructure.

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

26. For purposes of settling any and all disputes regarding alleged violations of PRC-005-1, Requirement 1 arising from the January 29, 2008 audit of UPP, SERC and UPP herein agree that UPP took the following actions, as set forth in UPP's Mitigation Plan submitted to SERC on February 18, 2008:
- i. Fully documented its battery testing and maintenance intervals;
  - ii. Fully documented the bases for its battery testing intervals; and,

- iii. Added items i. and ii. to its Protection System Maintenance and Testing Program documentation.
27. SERC accepted UPP's Mitigation Plan for PRC-005-1, Requirement 1 on April 22, 2008 and NERC approved the Mitigation Plan on May 21, 2008. The Mitigation Plan is identified as MIT-08-0552 and was submitted as non-public information to the Commission on May 21, 2008 in accordance with Commission orders. UPP certified on March 10, 2008 that the Mitigation Plan and the actions to prevent recurrence were completed on February 14, 2008. UPP's Mitigation Plan, its Certification of Mitigation Plan Completion, and the Statement of SERC Reliability Corporation Compliance Staff Regarding Completion of Mitigation Plan are attached hereto as Appendix A.
28. The parties agree that the actions taken referenced in paragraph 26 have been completed as of February 14, 2008.
29. For purposes of settling any and all disputes regarding alleged violations of CIP-001-1, Requirement 4 arising from the January 29, 2008 audit of UPP, SERC and UPP herein agree that UPP took the following actions, as set forth in UPP's Mitigation Plan submitted to SERC on February 21, 2008:
- i. Fully documented its contact information for notifying the FBI to report relevant issues of sabotage; and,
  - ii. Included this information in the appropriate operating procedures.
30. SERC accepted UPP's Mitigation Plan for CIP-001, Requirement 4 on April 22, 2008 and NERC approved the Mitigation Plan on May 21, 2008. The Mitigation Plan is identified as MIT-08-0551 and was submitted as non-public information to the Commission on May 21, 2008 in accordance with Commission orders. UPP certified on March 10, 2008 that the Mitigation Plan and the actions to prevent recurrence were completed on February 21, 2008. UPP's Mitigation Plan, its Certification of Mitigation Plan Completion, and the Statement of SERC Reliability Corporation Compliance Staff Regarding Completion of Mitigation Plan are attached hereto as Appendix A.
31. The parties agree that the actions taken referenced in paragraph 29 have been completed as of February 21, 2008.

32. In addition to the actions described above to mitigate the alleged violations and documentation deficiencies, and to prevent recurrence of future similar violations, for purposes of settling any and all disputes arising from SERC Compliance Enforcement Staff's assessment into the matters discovered during the Compliance Audit of UPP, SERC and UPP agree that on and after the effective date of this Agreement, UPP shall take the following action:

- i. UPP shall pay a monetary penalty of \$10,000 to SERC, via wire transfer to a SERC account that will be outlined in an invoice sent to UPP within twenty days after the Agreement is either approved by the Commission or is rendered effective by operation of law. Payment of this invoice shall be made within twenty days after the receipt of the invoice, and SERC shall notify NERC if the payment is not received.

33. 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 Agreement and/or additional violations and may subject UPP to new or additional enforcement, penalty or sanction actions in accordance with the NERC Rules of Procedure.

34. If UPP 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**

35. The signatories to this Agreement agree that they enter into this 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 UPP or SERC has been made to induce the signatories or any other party to enter into this Agreement.

36. 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 UPP 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 UPP 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.

37. 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.
38. This Agreement shall become effective upon NERC and the Commission's approval by order or operation of applicable law as submitted to it or as modified in a manner acceptable to the parties.
39. UPP agrees that this Agreement, when approved by NERC and the Commission, shall represent a final settlement of all matters set forth herein and UPP waives its right to further hearings and appeal, unless and only to the extent that UPP contends that any NERC or Commission action on the Agreement contains one or more material modifications to the Agreement. SERC preserves all rights to initiate enforcement, penalty or sanction actions against UPP in accordance with the NERC Rules of Procedure in the event that UPP fails to comply with the mitigation plan and compliance program agreed to in this Agreement. In the event UPP 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 UPP to the maximum extent allowed by the NERC Rules of Procedure, up to the maximum statutorily allowed penalty. UPP shall retain all rights to defend against such enforcement actions, also according to the NERC Rules of Procedure.
40. 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 this Agreement on the entity's behalf.
41. The undersigned representative of each party affirms that he or she has read this Agreement, that all of the matters set forth in this Agreement are true and correct to the best of his or her knowledge, information and

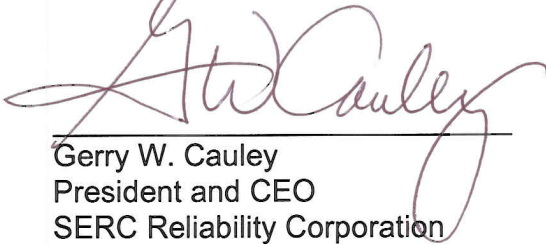
belief, and that he or she understands that this Agreement is entered into by such party in express reliance on those representations, provided; however, that such affirmation by each party's representative shall not apply to the other party's statements of position set forth in Section III of this Agreement.

42. This Agreement may be signed in counterparts.

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

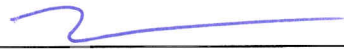
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Signatures to be affixed to the following page.***

Agreed to and accepted:

  
\_\_\_\_\_  
Gerry W. Cauley  
President and CEO  
SERC Reliability Corporation

10/24/2008

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Jerry Coffey  
General Counsel  
Union Power Partners, L.P.

10/24/08

\_\_\_\_\_  
Date



**APPENDIX A  
TO  
SETTLEMENT AGREEMENT  
OF  
SERC RELIABILITY CORPORATION  
AND  
UNION POWER PARTNERS, L.P.**

**For PRC-005-1, Requirement 1:**

- (1) UPP's Mitigation Plan
- (2) UPP's Certification of Mitigation Plan Completion
- (3) Statement of SERC Reliability Corporation Compliance Staff Regarding Completion of UPP's Mitigation Plan

**For CIP-001-1, Requirement 4:**

- (4) UPP's Mitigation Plan
- (5) UPP's Certification of Mitigation Plan Completion
- (6) Statement of SERC Reliability Corporation Compliance Staff Regarding Completion of UPP's Mitigation Plan

## Mitigation Plan Submittal Form

Date this Mitigation Plan is being submitted: 2/15/08

If this Mitigation Plan has already been completed:

- Check this box  and
- Provide the Date of Completion of the Mitigation Plan: 2/14/08

### Section A: Compliance Notices

- Section 6.2 of the CMEP<sup>1</sup> sets forth the information that must be included in a Mitigation Plan. The Mitigation Plan must include:
  - (1) The Registered Entity's point of contact for the Mitigation Plan, who shall be a person (i) responsible for filing the Mitigation Plan, (ii) technically knowledgeable regarding the Mitigation Plan, and (iii) authorized and competent to respond to questions regarding the status of the Mitigation Plan. This person may be the Registered Entity's point of contact described in Section 2.0.
  - (2) The Alleged or Confirmed Violation(s) of Reliability Standard(s) the Mitigation Plan will correct.
  - (3) The cause of the Alleged or Confirmed Violation(s).
  - (4) The Registered Entity's action plan to correct the Alleged or Confirmed Violation(s).
  - (5) The Registered Entity's action plan to prevent recurrence of the Alleged or Confirmed violation(s).
  - (6) The anticipated impact of the Mitigation Plan on the bulk power system reliability and an action plan to mitigate any increased risk to the reliability of the bulk power-system while the Mitigation Plan is being implemented.
  - (7) A timetable for completion of the Mitigation Plan including the completion date by which the Mitigation Plan will be fully implemented and the Alleged or Confirmed Violation(s) corrected.
  - (8) Implementation milestones no more than three (3) months apart for Mitigation Plans with expected completion dates more than three (3) months from the date of submission. Additional violations could be determined for not completing work associated with accepted milestones.
  - (9) Any other information deemed necessary or appropriate.
  - (10) The Mitigation Plan shall be signed by an officer, employee, attorney or other authorized representative of the Registered Entity, which if applicable, shall be the person that signed the Self-Certification or Self Reporting submittals.

<sup>1</sup> "Uniform Compliance Monitoring and Enforcement Program of the North American Electric Reliability Corporation;" a copy of the current version approved by the Federal Energy Regulatory Commission is posted on NERC's website.

- This submittal form shall be used to provide a required Mitigation Plan for review and approval by SERC and NERC.
- The Mitigation Plan shall be submitted to SERC and NERC as confidential information in accordance with Section 1500 of the NERC Rules of Procedure.
- This Mitigation Plan form may be used to address one or more related violations of one Reliability Standard. A separate mitigation plan is required to address violations with respect to each additional Reliability Standard, as applicable.
- If the Mitigation Plan is approved by SERC and NERC, a copy of this Mitigation Plan will be provided to the Federal Energy Regulatory Commission in accordance with applicable Commission rules, regulations and orders.
- SERC or NERC may reject Mitigation Plans that they determine to be incomplete or inadequate.
- Remedial action directives also may be issued as necessary to ensure reliability of the bulk power system.

**Section B: Registered Entity Information**

**B.1 Identify your organization:**

Company Name: Union Power Partners, L.P.  
Company Address: 6434 Calion HWY, El Dorado, AR 71730  
NERC Compliance Registry ID *[if known]*: PUPP01

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

Name: Larry Rodriguez  
Title: Manager - Transmission & Regulatory  
Email: lrodriguez@entegrapower.com  
Phone: 813 301-4952

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

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

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

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

NERC Violation ID # [if known]	SERC Violation ID # [if known]	Requirement Violated (e.g. R3.2)	Violation Date <sup>(*)</sup>
SERCYYYYnnnnn	YYYY-nnn	Rn.n.n	MM/DD/YYYY
	2008-004	R1.	01/30/08

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

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

Documentation was not complete to describe testing intervals and their basis for protective system batteries. The actual battery maintenance and testing (M&T) was being conducted as per IEEE-450-Sections 5, 6, & 7 in accordance with suggested intervals. Load Testing was included within the Union Power Station "Protective Relay Test Plan", and the auditors saw actual evidence of the M&T activity. However, the specific Battery Maintenance & Testing verbage describing battery testing intervals and their basis was not specifically itemized in the main Union Power Station "Policy and Procedures Document" (P&P - attached).

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



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

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

**Section D: Details of Proposed Mitigation Plan**

**Mitigation Plan Contents**

D.1 Identify and describe the action plan, including specific tasks and actions that your organization is proposing to undertake, or which it undertook if this Mitigation Plan has been completed, to correct the violations identified above in Part C.2 of this form:

Documentation specifically addressing battery testing intervals and their basis has been included in the main "Union Power Station PRC-005-1 Protection System Maintenance and Testing Policy and Procedure" document. This document is attached for your review and the specific Battery Maintenance and Testing language has been added as the second bullet under Section 3.0-Procedure.

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

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

**Mitigation Plan Timeline and Milestones**

D.2 Provide the timetable for completion of the Mitigation Plan, including the completion date by which the Mitigation Plan will be fully implemented and the violations associated with this Mitigation Plan are corrected:

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

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

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



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

**Additional Relevant Information (Optional)**

- D.4 If you have any relevant additional information that you wish to include regarding the mitigation plan, milestones, milestones dates and completion date proposed above you may include it here:

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

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

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

**Abatement of Interim BPS Reliability Risk**

- E.1 While your organization is implementing the Mitigation Plan proposed in Part D of this form, the reliability of the Bulk Power System may remain at higher risk or be otherwise negatively impacted until the plan is successfully completed. To the extent they are, or may be, known or anticipated: (i) identify any such risks or impacts; and (ii) discuss any actions that your organization is planning to take or is proposing as part of the Mitigation Plan to mitigate any increased risk to the reliability of the bulk power system while the Mitigation Plan is being implemented:

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

**Prevention of Future BPS Reliability Risk**

- E.2 Describe how successful completion of the Mitigation Plan as laid out in Part D of this form will prevent or minimize the probability that your organization incurs further violations of the same or similar reliability standards requirements in the future:

The subject possible violation was one of merely incomplete documentation, and that specific documentation has now been included in the "Union Power Station's PRC-005-1 Maintenance and Testing Policy and Procedure". This action will therefore prevent the probability that the same possible violation



would occur in the future. Furthermore, the "lessons learned" in experiencing this possible violation will certainly minimize the probability of further possible violations of similar reliability standard requirements in the future.

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

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

Continual and ongoing review of all Union Power Station Standard Requirements Policy and Procedure (P&P) documentation to assure actual established procedures are specifically described and included in the P&P.  
[Provide your response here; additional detailed information may be provided as an attachment as necessary]

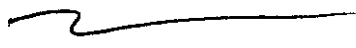
**Continued on Next Page**

## Section F: Authorization

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

- a) Submits the Mitigation Plan, as laid out in Section D of this form, to SERC for acceptance by SERC and approval by NERC, and
- b) If applicable, certifies that the Mitigation Plan, as laid out in Section D of this form, was completed (i) as laid out in Section D of this form and (ii) on or before the date provided as the 'Date of Completion of the Mitigation Plan' on this form, and
- c) Acknowledges:
  1. I am Jerry Coffey of Union Power Partners, L.P..
  2. I am qualified to sign this Mitigation Plan on behalf of Union Power Partners, L.P..
  3. I have read and understand Union Power Partners, L.P. obligations to comply with Mitigation Plan requirements and ERO remedial action directives as well as ERO documents, including, but not limited to, the NERC Rules of Procedure, including Appendix 4(C) (Compliance Monitoring and Enforcement Program of the North American Electric Reliability Corporation" (NERC CMEP)).
  4. I have read and am familiar with the contents of the foregoing Mitigation Plan.
  5. Union Power Partners, L.P. agrees to be bound by, and comply with, the Mitigation Plan, including the timetable completion date, as approved by SERC and approved by NERC.

### Authorized Individual Signature

  
(Electronic signatures are acceptable; see CMEP)

Name (Print): Jerry Coffey

Title: General Counsel

Date: 2/15/2008



**Section G: Comments and Additional Information**

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

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

**Submittal Instructions:**

Please convert the completed and signed document to an Adobe .pdf document using the following naming convention:

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

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

Please direct any questions regarding completion of this form to:

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

# Appendix A-2



To Close Out a Completed Mitigation Plan, fill out this form, save and email it to [serccomply@serc1.org](mailto:serccomply@serc1.org).

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

## Certification of a Completed Mitigation Plan

### SERC Reliability Corporation Violation Mitigation Plan Closure Form (Form Revised 10-25-07)

Name of Registered Entity submitting certification: Union Power Partners, L.P.

Date of Certification: 3/10/08

Name of Standard and the Requirement(s) of mitigated violation(s): PRC-005-1, R1.

SERC Tracking Number (contact SERC if not known): 2008-004

NERC Violation ID Number (if assigned): Not Assigned

Date of completion of the Mitigation Plan: 2/14/08

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

Name: Jerry Coffey  
Title: General Counsel  
Entity: Union Power Partners, L.P.  
Email: [jcoffey@entegrapower.com](mailto:jcoffey@entegrapower.com)  
Phone: 813 301-4998

Executive Signature \_\_\_\_\_ Date 3/4/08

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

# Appendix A-3



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

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

Registered Entity: Union Power Partners, L.P.  
SERC Tracking ID: 08-004  
NERC Violation No: SERC200800093  
NERC Mitigation Plan ID: MIT-08-0552  
Standard: PRC-005-1  
Requirement(s): R1

### **Violation Summary:**

Entity is in violation of PRC-005-1, Requirement 1 because its protection system maintenance and testing program does not include all of the components as defined in the NERC glossary of terms for Protection System. Station battery testing interval and basis were not part of the procedure. While the Violation Risk Factor is High, the audit team verified that battery testing was being performed, thus this is a documentation issue only.

### **Mitigation Plan Summary:**

UPP's Mitigation Plan to address the referenced violation was accepted by SERC on April 22, 2008 and approved by NERC on May 21, 2008 and was submitted as non-public information to FERC on May 21, 2008 in accordance with FERC orders.

The Mitigation Plan was certified as complete by Entity upon submittal. The documentation specifically addressing battery testing intervals and their basis has been included in Entity's main Protection System Maintenance and Testing Policy document. This document outlines the specific Battery Maintenance and Testing language added to complete the requirement.

### **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.

---

Terry Blackwell  
SERC Chairman  
South Carolina Public Service Authority

R. Scott Henry  
SERC Vice-Chairman  
Duke Energy Carolinas

Mike Smith  
SERC Secretary Treasurer  
Georgia Transmission Corporation



UPP submitted the Mitigation Plan as complete and no additional monitoring of progress was necessary.

**Mitigation Plan Completion Review Process:**

UPP certified on March 10, 2008 that the subject Mitigation Plan was completed on February 14, 2008. A SERC compliance staff member reviewed the evidence submitted in a manner similar to a compliance audit.

**Evidence Reviewed:**

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

"Union Power Station PRC-005-1 Protection System Maintenance and Testing Policy and Procedure"

*(UPP's main document, referencing certain IEEE standards was updated to include proper description of battery maintenance basis and intervals)*

**Conclusion:**

On April 4, 2008, SERC Reliability Corporation Compliance Staff ("SERC Staff") completed its review of the evidence submitted by UPP in support of its Certification of Completion of the subject Mitigation Plan. Based on its review of the evidence submitted, SERC Staff hereby verifies that, in its professional judgment, all required actions in the Mitigation Plan have been completed and UPP is in compliance with the subject Reliability Standard Requirements.

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

**Respectfully Submitted,**  
Mickey Bellard



## Mitigation Plan Submittal Form

Date this Mitigation Plan is being submitted: 2/21/08

If this Mitigation Plan has already been completed:

- Check this box  and
- Provide the Date of Completion of the Mitigation Plan: 2/21/08

### Section A: Compliance Notices

- Section 6.2 of the CMEP<sup>1</sup> sets forth the information that must be included in a Mitigation Plan. The Mitigation Plan must include:
  - (1) The Registered Entity's point of contact for the Mitigation Plan, who shall be a person (i) responsible for filing the Mitigation Plan, (ii) technically knowledgeable regarding the Mitigation Plan, and (iii) authorized and competent to respond to questions regarding the status of the Mitigation Plan. This person may be the Registered Entity's point of contact described in Section 2.0.
  - (2) The Alleged or Confirmed Violation(s) of Reliability Standard(s) the Mitigation Plan will correct.
  - (3) The cause of the Alleged or Confirmed Violation(s).
  - (4) The Registered Entity's action plan to correct the Alleged or Confirmed Violation(s).
  - (5) The Registered Entity's action plan to prevent recurrence of the Alleged or Confirmed violation(s).
  - (6) The anticipated impact of the Mitigation Plan on the bulk power system reliability and an action plan to mitigate any increased risk to the reliability of the bulk power-system while the Mitigation Plan is being implemented.
  - (7) A timetable for completion of the Mitigation Plan including the completion date by which the Mitigation Plan will be fully implemented and the Alleged or Confirmed Violation(s) corrected.
  - (8) Implementation milestones no more than three (3) months apart for Mitigation Plans with expected completion dates more than three (3) months from the date of submission. Additional violations could be determined for not completing work associated with accepted milestones.
  - (9) Any other information deemed necessary or appropriate.
  - (10) The Mitigation Plan shall be signed by an officer, employee, attorney or other authorized representative of the Registered Entity, which if applicable, shall be the person that signed the Self-Certification or Self Reporting submittals.

<sup>1</sup> "Uniform Compliance Monitoring and Enforcement Program of the North American Electric Reliability Corporation;" a copy of the current version approved by the Federal Energy Regulatory Commission is posted on NERC's website.





- This submittal form shall be used to provide a required Mitigation Plan for review and approval by SERC and NERC.
- The Mitigation Plan shall be submitted to SERC and NERC as confidential information in accordance with Section 1500 of the NERC Rules of Procedure.
- This Mitigation Plan form may be used to address one or more related violations of one Reliability Standard. A separate mitigation plan is required to address violations with respect to each additional Reliability Standard, as applicable.
- If the Mitigation Plan is approved by SERC and NERC, a copy of this Mitigation Plan will be provided to the Federal Energy Regulatory Commission in accordance with applicable Commission rules, regulations and orders.
- SERC or NERC may reject Mitigation Plans that they determine to be incomplete or inadequate.
- Remedial action directives also may be issued as necessary to ensure reliability of the bulk power system.

**Section B: Registered Entity Information**

B.1 Identify your organization:

Company Name: Union Power Partners, L.P. (also called Union Power Station, UPS)

Company Address: 6434 Calion HWY, El Dorado, AR 71730

NERC Compliance Registry ID *[if known]*: PUPP01

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

Name: Larry Rodriguez

Title: Manager-Transmission & Regulatory

Email: lrodriguez@entegrapower.com

Phone: 813 301-4952





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

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

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

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

NERC Violation ID # [if known]	SERC Violation ID # [if known ]	Requirement Violated (e.g. R3.2)	Violation Date <sup>(*)</sup>
SERCYYYYnnnnn	YYYY- <i>nnn</i>	R <i>n.n.n</i>	MM/DD/YYYY
	2008-003	R4.	1/30/08

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

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

Documentation was not complete to show establishment of contact with the FBI for the full time period covered by the audit. However, establishment of FBI contact was demonstrated at the time of the Audit, and therefore will not be an issue going forward. And, to demonstrate that good faith attempts to be compliant were made prior to June 07, please see the evidence and attachments described below.

Background information: The Union Power Station (UPS) Sabotage Reporting Procedure (Attachment 7) is Section 5.3 of the larger company "Integrated Contingency Plan (ICP)" initially developed in 9/30/05. That initial version did not contain FBI contact information. However, that initial ICP was then updated and reissued on 2/7/06, and was continuing to undergo further revision,

## Appendix A-4



including FBI contact information, during the April to December time frame of 2007.

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

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

An internal company Compliance Audit was conducted in March 07 of the UPS facility. It was discovered at that time, that the original Sabotage Reporting Procedure contained within the ICP did not contain FBI contact information. However, discussions at that time with the Environmental Health and Safety (EHS) person responsible for the ICP and therefore, Section 5.3, the Sabotage Reporting Procedure, confirmed that the entire ICP, and especially the Sabotage Reporting Procedure, would be undergoing a thorough update from the earlier 9/30/05 and 2/7/06 versions, and would, in fact, contain FBI contact information. Attached as evidence is: Attachment 1) an April 9, 2007 E-mail indicating under Item 5. CIP-001, in parenthesis "we will include FBI contacts - - -", and Attachment 2) a "June 4, 2007 Readiness Status" document indicating under CIP-001, page 4, the Sabotage Procedures "will have appropriate contact information (including FBI)". In the interim, UPS Plant personnel knew that a Little Rock, AR. FBI phone number existed in the local El Dorado phone book under "Emergency Numbers", and that phone book was updated annually.

It was later in the ICP and Sabotage Procedure updating process that a conscious decision was made by the EHS person (see Attachment 2-A) to specifically not include FBI contact information in the revised Sabotage Guideline; but to have the company General Counsel contacted for all Sabotage events, and to ONLY allow the General Counsel (Company Compliance Officer), or designee, access to the FBI contact information, and actually make the ultimate call to the FBI . The Company did not want to have these contacts/numbers available (laying around) to be found and abused by anyone who might encounter the Sabotage Reporting Procedure. It was some time during the ICP/Sabotage Procedure update process, and the continuous evolution of our Requirement knowledge and understanding, that attempts were made to not only establish, but confirm contact with the FBI. It was imperative to obtain some measure of acceptance of their role in our Sabotage Process. As evidence of this effort, attached are three E-mails: Attachment 3) E-mail dated December 12, 2007, Attachment 4) E-mail dated January 3, 2008, and Attachment 5) E-mail dated January 21,



2008, all indicating the pursuit of, and final confirmation from the FBI for acceptance of responsibilities in the UPS Sabotage Reporting process. [Provide your response here; additional detailed information may be provided as an attachment as necessary]





**Section D: Details of Proposed Mitigation Plan**

**Mitigation Plan Contents**

D.1 Identify and describe the action plan, including specific tasks and actions that your organization is proposing to undertake, or which it undertook if this Mitigation Plan has been completed, to correct the violations identified above in Part C.2 of this form:

The "UPS CIP-001-1 Sabotage Reporting Procedure" document (Attachment 6), and Chapter 5.3 of the larger ICP - "Sabotage Reporting Procedures" (Attachment 7), now include wording indicating FBI contact during Sabotage events will be made by the company General Counsel or designee. The General Counsel will be notified in the chain of contacts after an event occurs by either the Plant Manager or IT Manager (for cyber disruptions). General Counsel or designee have established and confirmed FBI contact information as seen by E mails dated 12/12/07, 1/3/08 and 1/21/08.

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

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

**Mitigation Plan Timeline and Milestones**

D.2 Provide the timetable for completion of the Mitigation Plan, including the completion date by which the Mitigation Plan will be fully implemented and the violations associated with this Mitigation Plan are corrected:

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

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

## Appendix A 4



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

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



**Additional Relevant Information (Optional)**

D.4 If you have any relevant additional information that you wish to include regarding the mitigation plan, milestones, milestones dates and completion date proposed above you may include it here:

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

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

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

**Abatement of Interim BPS Reliability Risk**

E.1 While your organization is implementing the Mitigation Plan proposed in Part D of this form, the reliability of the Bulk Power System may remain at higher risk or be otherwise negatively impacted until the plan is successfully completed. To the extent they are, or may be, known or anticipated: (i) identify any such risks or impacts; and (ii) discuss any actions that your organization is planning to take or is proposing as part of the Mitigation Plan to mitigate any increased risk to the reliability of the bulk power system while the Mitigation Plan is being implemented:

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

**Prevention of Future BPS Reliability Risk**

E.2 Describe how successful completion of the Mitigation Plan as laid out in Part D of this form will prevent or minimize the probability that your organization incurs further violations of the same or similar reliability standards requirements in the future:

The subject possible violation was one of incomplete documentation, and that specific FBI contact documentation has now been included in the "Union Power Station's CIP-001-1 Sabotage Reporting" document (Attachment 6) and Chapter 5.3 of the larger ICP, "Sabotage Reporting Procedure" (Attachment 7). This



action will absolutely prevent the same possible violation would occur in the future. Furthermore, the "lessons learned" in experiencing this possible violation will certainly minimize the probability of further possible violations of similar Reliability Standard Requirements in the future.

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

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

Continual and ongoing review of all Union Power Station Standard Requirements Policy and Procedure (P&P) documentation to assure actual established procedures are specifically described and included in the P&P.  
[Provide your response here; additional detailed information may be provided as an attachment as necessary]

Continued on Next Page





**Section F: Authorization**

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

- a) Submits the Mitigation Plan, as laid out in Section D of this form, to SERC for acceptance by SERC and approval by NERC, and
- b) If applicable, certifies that the Mitigation Plan, as laid out in Section D of this form, was completed (i) as laid out in Section D of this form and (ii) on or before the date provided as the 'Date of Completion of the Mitigation Plan' on this form, and
- c) Acknowledges:
  - 1. I am General Counsel of Union Power Partners, L.P. (also commonly called Union Power Station, UPS).
  - 2. I am qualified to sign this Mitigation Plan on behalf of Union Power Partners, L.P..
  - 3. I have read and understand Union Power Partners, L.P. obligations to comply with Mitigation Plan requirements and ERO remedial action directives as well as ERO documents, including, but not limited to, the NERC Rules of Procedure, including Appendix 4(C) (Compliance Monitoring and Enforcement Program of the North American Electric Reliability Corporation" (NERC CMEP)).
  - 4. I have read and am familiar with the contents of the foregoing Mitigation Plan.
  - 5. Union Power Partners, L.P. agrees to be bound by, and comply with, the Mitigation Plan, including the timetable completion date, as approved by SERC and approved by NERC.

**Authorized Individual Signature**

A blue ink handwritten signature, appearing to be 'Jerry Coffey', is written over a horizontal line.

(Electronic signatures are acceptable; see CMEP)

Name (Print): Jerry Coffey  
Title: General Counsel  
Date: 2/21/08





**Section G: Comments and Additional Information**

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

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

**Submittal Instructions:**

Please convert the completed and signed document to an Adobe .pdf document using the following naming convention:

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

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

Please direct any questions regarding completion of this form to:

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



To Close Out a Completed Mitigation Plan, fill out this form, save and email it to [serccomply@serc1.org](mailto:serccomply@serc1.org).

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

---

### Certification of a Completed Mitigation Plan

#### SERC Reliability Corporation Violation Mitigation Plan Closure Form (Form Revised 10-25-07)

Name of Registered Entity submitting certification: Union Power Partners, L.P.

Date of Certification: 3/10/08

Name of Standard and the Requirement(s) of mitigated violation(s): CIP-001-1, R4.

SERC Tracking Number (contact SERC if not known): 2008-003

NERC Violation ID Number (if assigned): Not Assigned

**Date of completion of the Mitigation Plan:** 2/21/08

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

Name: Jerry Coffey  
Title: General Counsel  
Entity: Union Power Partners, L.P.  
Email: [jcoffey@entegrapower.com](mailto:jcoffey@entegrapower.com)  
Phone: 813 301-4998

Executive Signature \_\_\_\_\_ Date 3/10/08

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

# Appendix A-6



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

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

Registered Entity: Union Power Partners, L.P.  
SERC Tracking ID: 08-003  
NERC Violation No: SERC200800092  
NERC Mitigation Plan ID: MIT-08-0551  
Standard: CIP-001-1  
Requirement(s): R4

### **Violation Summary:**

Evidence presented indicated that the Entity contacted the local FBI on January 18, 2008, but there was no documentation of any previous contact. Therefore, the entity was found in violation of R4 during the period from June 18, 2007 to January 18, 2008 for failure to establish required contact with the local FBI.

### **Mitigation Plan Summary:**

UPP's Mitigation Plan to address the referenced violation was accepted by SERC on April 22, 2008 and approved by NERC on May 21, 2008 and was submitted as non-public information to FERC on May 21, 2008 in accordance with FERC orders.

This Mitigation Plan addresses the identification and confirmation of FBI contact information and was certified by Entity as being complete upon submittal. The violation was mitigated when the Entity established contact with its local FBI on January 18, 2008. The Mitigation Plan also addresses proper contact protocol for personnel.

### **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. UPP submitted the Mitigation Plan as complete and no additional monitoring of progress was necessary.



**Mitigation Plan Completion Review Process:**

UPP certified on March 10, 2008 that the subject Mitigation Plan was completed on February 21, 2008. A SERC compliance staff member reviewed the evidence submitted in a manner similar to a compliance audit.

**Evidence Reviewed:**

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

"UPS CIP-00 1-1 Sabotage Reporting Procedure" document, and Chapter 5.3 of UPP's larger ICP - "Sabotage Reporting Procedures"

*(UPP's sabotage procedures referencing chain of contacts designation with established and confirmed FBI contact information)*

**Conclusion:**

On April 8, 2008, SERC Reliability Corporation Compliance Staff ("SERC Staff") completed its review of the evidence submitted by UPP in support of its Certification of Completion of the subject Mitigation Plan. Based on its review of the evidence submitted, SERC Staff hereby verifies that, in its professional judgment, all required actions in the Mitigation Plan have been completed and UPP is in compliance with the subject Reliability Standard Requirements.

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

**Respectfully Submitted,**  
Mickey Bellard

**Attachment c**

**Notice of Filing**

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Union Power Partners, L.P.

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 Union Power Partners, L.P. 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