



NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

July 10, 2009

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

**Re: NERC Notice of Penalty regarding BTU QSE Services, Inc., FERC Docket No. NP09-  
-000**

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Notice of Penalty<sup>1</sup> regarding BTU QSE Services, Inc. (BTU), NERC Registry ID NCR04024,<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 Texas Regional Entity (Texas RE), BTU does not dispute the alleged violations of CIP-001-1 Requirements (R) 1 and R3. Texas RE and BTU have entered into a Settlement Agreement in which BTU has agreed to the proposed penalty of \$5,000 to be assessed to BTU, in addition to other remedies which include mitigation actions and actions to prevent recurrence and promote prospective compliance required under the terms and conditions of the Settlement Agreement. Texas RE and BTU have entered into the Settlement Agreement to resolve all outstanding issues arising from a preliminary and non-public assessment resulting in Texas RE's determination and findings of the enforceable alleged violations at issue in this Notice of Penalty. Accordingly, the alleged violations identified as NERC Violation Tracking Identification Numbers TRE200800030 and TRE200800031<sup>4</sup> 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> Texas Regional Entity confirmed that BTU QSE Services, Inc. was included on the NERC Compliance Registry on June 28, 2007 as a Generator Operator, and was subject to the requirements of NERC Reliability Standard CIP-001-1.

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

<sup>4</sup> The Settlement Agreement incorrectly lists the NERC Violation Tracking Identification Numbers as TRE2008000030 and TRE2008000031.

### 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 June 15, 2009, by and between Texas RE and BTU, and the supplemental record information notices dated November 19, 2008 and June 16, 2009. The details of the findings and basis for the penalty are set forth in the Settlement Agreement and herein. This Notice of Penalty filing contains the basis for approval of the Settlement Agreement by the NERC Board of Trustees Compliance Committee (NERC BOTCC). In accordance with Section 39.7 of the Commission's regulations, 18 C.F.R. § 39.7 (2007), NERC provides the following summary table identifying each alleged violation of a Reliability Standard resolved by the Settlement Agreement, as discussed in greater detail below.

Region	Registered Entity	NOC ID	NERC Violation ID	Reliability Std.	Req. (R)	VRF	Total Penalty (\$)
TRE RE	BTU QSE Services, Inc.	NOC-120	TRE200800030	CIP-001-1	1	Medium	\$5,000
TRE RE	BTU QSE Services, Inc.	NOC-120	TRE200800031	CIP-001-1	3	Medium	

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 R1 requires an entity such as BTU to have procedures for the recognition of and for making its operating personnel aware of sabotage events on its facilities and multi-site sabotage affecting larger portions of the Interconnection. CIP-001-1 R1 has a "Medium" Violation Risk Factor (VRF).

CIP-001-1 R3 requires an entity such as BTU to provide its operating personnel with sabotage response guidelines, including personnel to contact, for reporting disturbances due to sabotage events. CIP-001-1 R3 has a "Medium" VRF.

According to the Settlement Agreement, Texas RE conducted an on-site compliance audit on January 16, 2008, during which it found BTU to be in possible violation of Reliability Standard CIP-001-1 R1 and R3. Texas RE's audit team interviewed BTU's operations and other personnel and reviewed documents to substantiate that those operations personnel were trained and capable of following the procedures to ensure reliable operations from that entity. The Audit team also interviewed Information Technology, Communications, and Planning personnel as necessary to get answers to questions and verify training of BTU personnel.

According to the Settlement Agreement, during the audit, Texas Regional Entity discovered two alleged violations, CIP-001-1 R1 and R3. The Texas RE Audit team discovered that BTU did not have (a) written guidelines or a written procedure for making operating personnel aware of sabotage events (Sabotage Reporting Procedure) prior to October 3, 2007; and (b) the written Sabotage Reporting Procedure was not included in BTU operator procedures manual and was not

available to operating personnel at any time before or during the audit. In addition, the three operators interviewed by Texas RE during the audit confirmed not being aware of this procedure, but, on the audit date, they did have FBI communications contact information available to them. During the course of the audit and after discovery that the procedure was missing from the operator procedures manual, a division manager inserted the Sabotage Reporting Procedure, dated October 3, 2007, into the manual to mitigate its omission.

Texas RE determined that BTU did not have a Sabotage Reporting Procedure in place from June 28, 2007, the date BTU was registered on the NERC Compliance Registry, until October 3, 2007, when BTU created the procedure and corrected the CIP-001-1 R1 violation. The CIP-001-R3 violation was corrected the day of the audit when the Sabotage Reporting Procedure was finally explained and made available to operations personnel, by being inserted into the BTU operator procedure manual. Therefore, Texas RE alleged that BTU was in violation of CIP-001-1 R3 from June 28, 2007 until January 16, 2008.

In addition, BTU had procedures in place since July 1, 1999 (prior to the June 18, 2007 effective date of the NERC Reliability Standards) to inform the Electric Reliability Council of Texas, Inc. (ERCOT), pursuant to ERCOT Protocol 2.7.2.3, if or when: (a) it is suspected or identified that multi-site sabotage has occurred, or (b) it is suspected or identified that a single-site sabotage of a critical facility has occurred. Protocol 2.7.2.3 further requires that "ERCOT shall inform NERC and governmental agencies of the threat in accordance with current laws and regulations." BTU operators were all familiar with this requirement during the audit period.

Based on documentation provided to the Texas RE Audit team and the on-site interviews of BTU personnel, the Texas RE Audit team discovered that BTU expended time and money to retain consultants to expedite BTU's development of policies and procedures to comply with applicable NERC Reliability Standards. Texas RE Audit team also determined that a quality compliance program was in place and staffed a reliability compliance manager. It was determined that BTU's procedures were determined to be documented and organized, with the exception of the missing Sabotage Reporting Procedure.

The Texas RE Enforcement staff determined that BTU corrected its failure to have a written procedure on October 3, 2007, but it still failed to place the procedure in the operator procedures manual. The Texas RE Enforcement staff found that BTU was allegedly in violation of CIP-001-1 R1 by not having a Sabotage Reporting Procedure prior to October 3, 2007. Therefore, Texas RE Enforcement staff alleged that BTU was allegedly in violation of CIP-001-1 R1 from June 28, 2007 until October 3, 2007.

The Texas RE Enforcement staff found that the Sabotage Reporting Procedure, even after its creation, was not included in the BTU operator procedures manual and was not otherwise made available to operating personnel prior to the audit. While in the presence of the Texas RE Audit team, the BTU Division Manager inserted this procedure in the manual. Texas RE Audit team's interviews confirmed that none of the three (3) BTU operators was aware of this procedure. Therefore, Texas RE Staff alleged that BTU was allegedly in violation of CIP-001-1 R3 from June 28, 2007 until January 16, 2008.

According to the Settlement Agreement, Texas RE assessed a combined total penalty of \$5,000 against BTU for the alleged violations of CIP-001-1 R1 and R3. In arriving at this figure, Texas RE Enforcement Staff took into consideration the following factors as it relates to the alleged violation of CIP-001-1 R1: (a) this alleged violation was a documentation issue, because there was an ERCOT regional procedure in place; (b) BTU hired a consultant to expedite the development and creation of policies and procedures, in a good faith attempt to comply with all NERC Reliability Standards; (c) BTU corrected its failure to have a fully compliant Sabotage Reporting Procedure in its operator procedures manual during the course of the audit; (d) BTU cooperated in the audit; (e) BTU had an alternative procedure in place (under ERCOT Protocols) to notify appropriate parties of a sabotage event; (f) BTU has an appropriate culture of compliance with a reliability compliance manager; and (g) the violations were deemed not to be violations that put bulk power system reliability at serious or substantial risk, because it had a procedure in place prior to June 28, 2007, that required BTU to inform ERCOT ISO of suspected or identified sabotage issues and further required ERCOT ISO to notify NERC and governmental agencies of such threats. Texas RE also considered the fact that BTU is a governmental nonprofit entity and did not act willfully to violate any standard or requirement in order to save money.

In addition, Texas RE Staff took into consideration the following factors as it relates to the alleged violation of CIP-001-1 R3: (a) this is a documentation issue, because there was an ERCOT regional procedure in place; (b) BTU hired a consultant to expedite the development and creation of policies and procedures in an attempt to comply with all NERC Reliability Standards; (c) BTU corrected its failure to have a written procedure on October 3, 2007, but it still failed to place the Sabotage Reporting Procedure in its operator procedures manual; (d) BTU cooperated to immediately correct its failure to include the written procedure in its operating manual during the course of the audit; (e) BTU had an alternative procedure in place (under ERCOT Protocols) to notify appropriate parties of a sabotage event; (f) BTU has an appropriate culture of compliance with a reliability compliance manager; and (g) there is a medium potential impact on the bulk power system for this alleged violation, because the operators were not trained and were unaware of the new sabotage reporting procedure that was developed on October 3, 2007.

### **Status of Mitigation Plan**

BTU's Mitigation Plan to address the alleged violations of CIP-001-1 R1 and R3 was submitted to Texas RE on March 24, 2008 and then resubmitted (correcting a typographical error) on May 5, 2008.<sup>5</sup> The resubmission of the mitigation plan included the addition of the NERC Compliance Registry ID number and a correction to the assigned NERC Violation ID number. Texas RE accepted the Mitigation Plan on May 14, 2008 and on August 14, 2008, it was approved by NERC. The Mitigation Plan for the alleged violations listed above is designated as MIT-08-0603 and was submitted as non-public information to FERC in accordance with FERC orders.

Upon submission of its Mitigation Plan, BTU confirmed that its Sabotage Reporting Procedure was not written and approved in a timely manner, and therefore did not cover the entire audit

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<sup>5</sup> The May 5, 2008 Mitigation Plan incorrectly states the submission date as March 24, 2008.

period. Texas RE was satisfied that the content of the procedure met CIP-001-1 requirements, and agreed that the CIP-001-1 R1 violation was effectively mitigated on October, 3, 2007. An administrative oversight occurred when the procedure was not timely placed in the operator procedures manual, until the audit day of January 16, 2008. The CIP-001-1 R3 violation was effectively mitigated that same day when an authorized division manager placed the procedure in the appropriate manual and immediately required each operator to be trained on the procedure at the next scheduled work shift. This mitigation was documented in BTU's training log.

BTU certified on May 16, 2008 to Texas RE that its Mitigation Plan was completed on January 16, 2008, and Texas RE verified<sup>6</sup> on May 16, 2008 that the Mitigation Plan was completed by reviewing the training logs. During the audit and considered as part of the mitigation plan, BTU QSE Services inserted the procedure into the operators manual. Reviewing the training logs confirmed that the operators were trained and aware of those procedures.

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

### **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>7</sup> the NERC BOTCC reviewed the Settlement Agreement and supporting documentation on October 27, 2008. The NERC BOTCC approved the Settlement Agreement, including Texas RE's imposition of a \$5,000 penalty against BTU, in addition to other actions to promote prospective compliance required under the terms and conditions of the Settlement Agreement. In approving the Settlement Agreement, the NERC BOTCC reviewed the applicable requirements of the Commission-approved Reliability Standards and the underlying facts and circumstances of the alleged violations at issue.

In reaching this determination, NERC BOTCC considered the following factors: (1) BTU is an independent local government corporation; (2) the alleged violation of CIP-001-1 R1 presented a relatively minimal risk to the bulk power system because it was a documentation issue given the ERCOT regional procedure that was in place that required notifications to inform ERCOT ISO of suspected or identified sabotage issues and further required ERCOT ISO to notify NERC and governmental agencies; (3) the alleged violation of CIP-001-1 R3 did not pose a serious or substantial risk to the reliability of the bulk power system from June 28, 2007 until January 16, 2008 which is the date BTU completed its Mitigation Plan; (4) BTU did not contest the alleged violations; (5) BTU agreed to the settlement to resolve the alleged violations and to avoid extended litigation; (6) there were no repetitive violations; (7) BTU was cooperative during the audit and subsequent violation investigation; (8) there was no evidence that the alleged violations were intentional; and (9) BTU accepted Texas RE's confirmation of the alleged violations and proposed penalty.

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<sup>6</sup> Texas Regional Entity reviewed BTU QSE Services, Inc.'s training log which showed that the company's operators received training of the Sabotage Reporting Procedure.

<sup>7</sup> *Guidance on Filing Reliability Notices of Penalty*, 124 FERC ¶ 61,015 (2008).

Therefore, NERC approves the Settlement Agreement and believes that the proposed \$5,000 dollar penalty is appropriate and consistent with NERC's goal to ensure reliability of the bulk power system.

Pursuant to Order No. 693, the penalty will be effective upon expiration of the 30 day period following the filing of this Notice of Penalty with FERC, or, if FERC decides to review the penalty, upon final determination by FERC.

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

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

- a) Texas RE's Audit Initial Results Summary, dated January 16, 2008, included as Attachment a;
- b) BTU's Response to the Notice of Alleged Violation and Proposed Penalty or Sanction, dated March 24, 2008, included as Attachment b;
- c) Settlement Agreement by and between BTU and Texas RE, executed June 15, 2009, included as Attachment c;
- d) Mitigation Plan designated as MIT-08-0603, submitted March 24, 2008, included as Attachment d;
- e) BTU's Certification of Completion of the Mitigation Plan dated May 16, 2008, included as Attachment e;
- f) Texas RE's Verification of Completion of the Mitigation Plan, dated May 16, 2008, included as Attachment f; and

#### **A Form of Notice Suitable for Publication**

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



## Notices and Communications

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

Rick Sergel  
President and Chief Executive Officer  
David N. Cook\*  
Vice President and General Counsel  
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\*Persons to be included on the Commission's service list are indicated with an asterisk. NERC respectfully requests waiver of the Commission's rules and regulations to permit more than two persons on the service list.

**Conclusion**

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

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President and Chief Executive Officer  
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Respectfully submitted,

/s/ Rebecca J. Michael  
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cc: BTU QSE Services, Inc.  
Texas Regional Entity

Attachment(s)



**Attachment a**

**Texas RE's Audit Initial Results Summary, dated  
January 16, 2008**

## GOP Audit Initial Results Summary

<b>Entity Name:</b>		<b>BTU QSE Services Inc.</b>
<b>Audit Date:</b>		<b>January 16, 2008</b>
<b>Audit Leader:</b>		<b>Jeff Whitmer</b>
<b>Are there any Possible Violations?</b>		<b>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></b>
<b>Standard</b>	<b>Text of Requirement</b>	<b>Full Compliance?</b>
<b>BAL-005-0</b>		
<b>R1.</b>	All generation, transmission, and load operating within an Interconnection must be included within the metered boundaries of a Balancing Authority Area.	<b>Yes</b>
<b>RSAW</b>	(R1.): Determine if the entity being audits has any generation, transmission, or load not within the boundaries of a Balancing Authority area.	
<b>R1.1</b>	Each Generator Operator with generation facilities operating in an Interconnection shall ensure that those generation facilities are included within the metered boundaries of a Balancing Authority Area.	<b>Yes</b>
<b>RSAW</b>	(R1.1.) Determine if the Generator Operator has all generation facilities included within the metered boundaries of a Balancing Authority Area.	
<b>Audit Notes:</b>		
<b>CIP-001-1</b>		
<b>R1.</b>	Each Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, and Load-Serving Entity shall have procedures for the recognition of and for making their operating personnel aware of sabotage events on its facilities and multi-site sabotage affecting larger portions of the Interconnection.	<b>Possible Violation</b>
<b>RSAW</b>	(R1): Review the evidence provided by the entity to verify a method or procedure (either electronic or hard copy) exists for recognition of potential sabotage events described in Requirement 1. <hr/> (R1): Review the evidence provided by the entity to verify that the above procedure has specific steps to notify operating personnel in the event of a sabotage event.	
<b>R2.</b>	Each Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, and Load-Serving Entity shall have procedures for the communication of information concerning sabotage events to appropriate parties in the Interconnection.	<b>Yes</b>

<b>RSAW</b>	(R2): Review the evidence provided by the entity to verify documented procedures exist for communicating information concerning sabotage events. <hr/> (R2): Review the evidence provided by the entity to verify the list of appropriate parties in the Interconnection to be notified.	
<b>R3.</b>	Each Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, and Load-Serving Entity shall provide its operating personnel with sabotage response guidelines, including personnel to contact, for reporting disturbances due to sabotage events.	<b>Possible Violation</b>
<b>RSAW</b>	(R3): Review the evidence provided by the entity to verify that a documented sabotage response guideline exists, and that it includes personnel contacts. <hr/> (R3): Review the evidence provided by the entity to verify that a documented sabotage response guideline was available to operating personnel.	
<b>R4.</b>	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.	<b>Yes</b>
<b>RSAW</b>	(R4): Review the evidence provided by the entity to confirm that the audited entity has established a list identifying, as applicable communication contacts with the appropriate entities described in Requirement 4. <hr/> (R4):Review the evidence provided by the entity to verify determine if the audited entity has developed reporting procedures as appropriate to their circumstances.	
<b>Audit Notes:</b>	<b>R1: A Sabotage Reporting Procedure did not exist prior to 10/03/2007. R3: The Sabotage Reporting Procedure was not made available to operating personnel.</b>	
<b>COM-002-2</b>		
<b>R1.</b>	Each Transmission Operator, Balancing Authority, and Generator Operator shall have communications (voice and data links) with appropriate Reliability Coordinators, Balancing Authorities, and Transmission Operators. Such communications shall be staffed and available for addressing a real-time emergency condition.	<b>Yes</b>
<b>RSAW</b>	(R1.): Determine if the entity has voice and data links with appropriate Reliability Coordinators, Balancing Authorities, and Transmission Operators. <hr/> Determine if those communications facilities have staff available to initiate, receive, and/or monitor those communications to address a real-time emergency	

	<p><u>condition.</u></p> <p>Determine if the entity notified its Reliability Coordinator and all other potentially affected Balancing Authorities and Transmission Operators of any condition that could threaten the reliability of its area, or when firm load shedding is anticipated, through predetermined communications paths.</p>	
<b>Audit Notes:</b>		
<b>EOP-004-1</b>		
<b>R2.</b>	A Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator or Load Serving Entity shall promptly analyze Bulk Electric System disturbances on its system or facilities.	<b>Yes</b>
<b>RSAW</b>	(R2.): Determine if the entity analyzed Bulk Electric System disturbances on its system or facilities promptly.	
<b>R3.</b>	A Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator or Load Serving Entity experiencing reportable incident shall provide a preliminary written report to its Regional Reliability Organization and NERC.	<b>Yes</b>
<b>RSAW</b>	(R3.): Determine if the entity experienced a reportable incident. <u>If yes:</u> Determine if the entity provided a preliminary written report to its Regional Reliability Organization and NERC.	
<b>R3.1</b>	The affected Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator or Load Serving Entity shall submit within 24 hours of the disturbance or unusual occurrence either a copy of the report submitted to DOE, or, if no DOE report is required, a copy of the NERC Interconnection Reliability Operating Limit and Preliminary Disturbance Report form. Events that are not identified until some time after they occur shall be reported within 24 hours of being recognized.	<b>Yes</b>
<b>RSAW</b>	(R3.1): Determine if the entity submitted a copy of the report submitted to DOE, or if no DOE report is required, a copy of the NERC Interconnection Reliability Operating Limit and Preliminary Disturbance Report form with 24 hours of the disturbance or unusual occurrence, or in the case of an event not identified until some time after they occurred, within 24 hours of being recognized.	
<b>R3.2</b>	Applicable reporting forms are provided in Attachments 1-EOP-004 and 2-EOP-004.	<b>Yes</b>

<p><b>R3.3</b></p>	<p>Under certain adverse conditions, e.g., severe weather, it may not be possible to assess the damage caused by a disturbance and issue a written Interconnection Reliability Operating Limit and Preliminary Disturbance Report within 24 hours. In such cases, the affected Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, or Load Serving Entity shall promptly notify its Regional Reliability Organization(s) and NERC, and verbally provide as much information as is available at that time. The affected Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, or Load Serving Entity shall then provide timely, periodic verbal updates until adequate information is available to issue a written Preliminary Disturbance Report.</p>	<p><b>Yes</b></p>
<p><b>RSAW</b></p>	<p>(R3.3): Determine if the event was a result of adverse conditions If yes:</p> <hr/> <p>Determine if the entity notified its Regional Reliability Organization and NERC and verbally provided as much information is available at that time.</p> <hr/> <p>Determine if the entity provided timely, periodic verbal updates until adequate information is available to issue a written Preliminary Disturbance Report.</p>	
<p><b>R3.4</b></p>	<p>If, in the judgment of the Regional Reliability Organization, after consultation with the Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, or Load Serving Entity in which a disturbance occurred, a final report is required, the affected Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator, or Load Serving Entity shall prepare this report within 60 days. As a minimum, the final report shall have a discussion of the events and its cause, the conclusions reached, and recommendations to prevent recurrence of this type of event. The report shall be subject to Regional Reliability Organization approval.</p>	<p><b>Yes</b></p>
<p><b>RSAW</b></p>	<p>(R3.4): Determine if the Regional Reliability Organization required a final report If yes:</p> <hr/> <p>Determine if the entity that experienced the event prepared this report within 60 days.</p> <hr/> <p>Determine if the report had a:</p> <hr/> <p>Discussion of the events and cause.</p> <hr/> <p>Conclusions reached.</p> <hr/> <p>Recommendations to prevent a recurrence of this type of event.</p>	
<p><b>Audit Notes:</b></p>		
<p><b>EOP-009-0</b></p>		

<p><b>R1.</b></p>	<p>The Generator Operator of each blackstart generating unit shall test the startup and operation of each system blackstart generating unit identified in the BCP as required in the Regional BCP (Reliability Standard EOP-007-0_R1). Testing records shall include the dates of the tests, the duration of the tests, and an indication of whether the tests met Regional BCP requirements.</p>	<p><b>Yes</b></p>
<p><b>RSAW</b></p>	<p><u>Review Regional Blackstart Capability Program (BCP) and identify the requirement for testing the startup and operation of each system blackstart generating unit.</u>  <u>(R1.): Review the evidence provided by the entity to confirm the identified blackstart units.</u>  <u>(R1.): Review records to ensure the records contain the information required by R1 including:</u>  Unit tested.  Date of the test.  Test duration.  Whether the test met Regional BCP requirements.</p>	
<p><b>R2.</b></p>	<p>The Generator Owner or Generator Operator shall provide documentation of the test results of the startup and operation of each blackstart generating unit to the Regional Reliability Organizations and upon request to NERC.</p>	<p><b>Yes</b></p>
<p><b>RSAW</b></p>	<p><u>(R2.): Review the evidence provided by the entity to determine if the Generator Owner or Generator Operator has documentation of the test results of the startup and operation of each blackstart generating unit.</u>  <u>(R2.): Review the evidence provided by the entity to determine if the Generator Owner or Generator Operator submitted the above documentation to its Regional Reliability Organization.</u>  <u>(R2.): Review the evidence provided by the entity to determine if NERC requested the above documentation.</u>  <u>(R2.): Determine if the Generator Owner or Generator Operator submitted the above documentation to NERC.</u></p>	
<p><b>Audit Notes:</b></p>		
<p><b>IRO-001-1</b></p>		
<p><b>R8.</b></p>	<p>Transmission Operators, Balancing Authorities, Generator Operators, Transmission Service Providers, Load-Serving Entities, and Purchasing-Selling Entities shall comply with Reliability Coordinator directives unless such actions would violate safety, equipment, or regulatory or statutory requirements. Under these circumstances, the Transmission Operator, Balancing Authority, Generator Operator, Transmission Service Provider, Load Serving Entity, or Purchasing-Selling Entity shall immediately inform the Reliability Coordinator of the inability to perform the directive so that the Reliability Coordinator may implement alternate remedial action.</p>	<p><b>Yes</b></p>

<b>RSAW</b>	<p>(R8.): Review the evidence provided by the entity to verify that the entities listed in R8 have operator logs, voice recordings or transcripts of voice recordings, or other equivalent evidence that will be used to confirm that it:</p> <hr/> <p>(R8.): Complied with the Reliability Coordinator's directives <b>OR</b></p> <hr/> <p>(R8.): If for safety, equipment, regulatory or statutory requirements it could not comply, it informed the Reliability Coordinator immediately.</p>	
<b>Audit Notes:</b>		
<b>IRO-004-1</b>		
<b>R4.</b>	<p>Each Transmission Operator, Balancing Authority, Transmission Owner, Generator Owner, Generator Operator, and Load-Serving Entity in the Reliability Coordinator Area shall provide information required for system studies, such as critical facility status, Load, generation, operating reserve projections, and known Interchange transactions. This information shall be available by 1200 Central Standard Time for the Eastern Interconnection and 1200 Pacific Time for the Western Interconnection.</p>	<b>Yes</b>
<b>RSAW</b>	<p>(R4.): Verify that each Transmission Operator, Balancing Authority, Transmission Owner, Generator Owner, Generator Operator, and Load-Serving Entity in the Reliability Coordinator Area have provided the following required information:</p> <ul style="list-style-type: none"> <li>Critical facility status.</li> <li>Load.</li> <li>Generation.</li> <li>Operating reserve projections.</li> <li>Known Interchange Transactions.</li> </ul> <hr/> <p>(R4.): Review the evidence provided by the entity that demonstrates the information was submitted by 1200 CST for the Eastern Interconnection and 1200 PST for Western Interconnection.</p>	
<b>Audit Notes:</b>		
<b>IRO-005-1</b>		



<p><b>R13.</b></p>	<p>Each Reliability Coordinator shall ensure that all Transmission Operators, Balancing Authorities, Generator Operators, Transmission Service Providers, Load-Serving Entities, and Purchasing-Selling Entities operate to prevent the likelihood that a disturbance, action, or nonaction in its Reliability Coordinator Area will result in a SOL or IROL violation in another area of the Interconnection. In instances where there is a difference in derived limits, the Reliability Coordinator and its Transmission Operators, Balancing Authorities, Generator Operators, Transmission Service Providers, Load-Serving Entities, and Purchasing-Selling Entities shall always operate the Bulk Electric System to the most limiting parameter.</p>	<p><b>Yes</b></p>
<p><b>RSAW</b></p>	<p>(R13.): Determine if the Reliability Coordinator verified that all Transmission Operators, Balancing Authorities, Generator Operators, Transmission Service Providers, Load-Serving Entities, and Purchasing-Selling Entities operate to prevent the likelihood that a disturbance, action, or nonaction in its Reliability Coordinator Area will result in a SOL or IROL violation in another area of the Interconnection.</p> <hr/> <p>Determine if the Reliability Coordinator and its Transmission Operators, Balancing Authorities, Generator Operators, Transmission Service Providers, Load-Serving Entities, and Purchasing-Selling Entities always operate the Bulk Electric System to the most limiting parameter in instances where there is a difference in derived limits.</p>	
<p><b>Audit Notes:</b></p>		
<p><b>TOP-002-2</b></p>		
<p><b>R3.</b></p>	<p>Each Load Serving Entity and Generator Operator shall coordinate (where confidentiality agreements allow) its current-day, next-day, and seasonal operations with its Host Balancing Authority and Transmission Service Provider. Each Balancing Authority and Transmission Service Provider shall coordinate its current-day, next-day, and seasonal operations with its Transmission Operator.</p>	<p><b>Yes</b></p>
<p><b>RSAW</b></p>	<p>(R3.): Determine if the entity coordinated (where confidentiality agreements allow) its current-day, next-day, and seasonal operations with its Host-Balancing Authority and Transmission Service Provider.</p> <hr/> <p>Determine if the entity coordinated its current-day, next-day and seasonal operations with its Transmission Operator.</p>	

<b>R13.</b>	At the request of the Balancing Authority or Transmission Operator, a Generator Operator shall perform generating real and reactive capability verification that shall include, among other variables, weather, ambient air and water conditions, and fuel quality and quantity, and provide the results to the Balancing Authority or Transmission Operator operating personnel as requested.	<b>Yes</b>
<b>RSAW</b>	(R13.): Determine if the Generator Operator, upon request of the Balancing Authority or Transmission Operator, performed generating and reactive capability verification that included: <ul style="list-style-type: none"> <li>• Weather.</li> <li>• Ambient air and water conditions.</li> <li>• Fuel quality and quantity.</li> <li>• Determine if the Generator Operator provided the results of the test to the Balancing Authority or Transmission Operator operating personnel as requested.</li> </ul>	
<b>R14.</b>	Generator Operators shall, without any intentional time delay, notify their Balancing Authority and Transmission Operator of changes in capabilities and characteristics including but not limited to:	<b>Yes</b>
<b>R14.1</b>	Changes in real output capabilities.	<b>Yes</b>
<b>RSAW</b>	(R14.): Determine if the Generator Operator notified their Balancing Authority and Transmission Operator, without intentional time delay, of changes in capabilities and characteristics including but not limited to: (R14.1): Changes in real output capabilities.  <b>Note: An intentional time delay should be considered potential evidence of an intent to violate this requirement.</b>	
<b>R15.</b>	Generation Operators shall, at the request of the Balancing Authority or Transmission Operator, provide a forecast of expected real power output to assist in operations planning (e.g., a seven-day forecast of real output).	<b>Yes</b>
<b>RSAW</b>	(R15.): Determine if the Generator Operator provided a forecast of expected real power output at the request of the Balancing Authority or Transmission Operator.	
<b>R18.</b>	Neighboring Balancing Authorities, Transmission Operators, Generator Operators, Transmission Service Providers and Load Serving Entities shall use uniform line identifiers when referring to transmission facilities of an interconnected network.	<b>Yes</b>
<b>RSAW</b>	(R18.): Determine if the entity used uniform line identifiers when referring to transmission facilities of an interconnected network.	
<b>Audit Notes:</b>		
<b>TOP-003-0</b>		

<b>R1.</b>	Generator Operators and Transmission Operators shall provide planned outage information.	<b>Yes</b>
<b>RSAW</b>	(R1.): Review data submittals and confirm that they conform to established reporting requirements.	
<b>R1.1.</b>	Each Generator Operator shall provide outage information daily to its Transmission Operator for scheduled generator outages planned for the next day (any foreseen outage of a generator greater than 50 MW). The Transmission Operator shall establish the outage reporting requirements.	<b>Yes</b>
<b>RSAW</b>	(R1.1 and R1.2): Review the evidence provided to verify that the Reliability Coordinator and/or the Transmission Operator have established documented outage reporting procedures. <hr/> Review outage schedules for transmission and/or generation as applicable and compare to outage submissions.	
<b>R1.3.</b>	Such information shall be available by 1200 Central Standard Time for the Eastern Interconnection and 1200 Pacific Standard Time for the Western Interconnection.	<b>Yes</b>
<b>RSAW</b>	(R1.3.): Review logs of data submittal times. <hr/> Review any applicable software applications that are used for requesting, tracking, performing, or transmitting outages.	
<b>R2.</b>	Each Transmission Operator, Balancing Authority, and Generator Operator shall plan and coordinate scheduled outages of system voltage regulating equipment, such as automatic voltage regulators on generators, supplementary excitation control, synchronous condensers, shunt and series capacitors, reactors, etc., among affected Balancing Authorities and Transmission Operators as required.	<b>Yes</b>
<b>RSAW</b>	Review coordination methods or procedures. <hr/> (R2.): Review communications, logs, or other evidence to confirm that coordination occurred.  <b>NOTE: Coordination methods or procedures do not have to be in a formal written document.</b>	
<b>R3.</b>	Each Transmission Operator, Balancing Authority, and Generator Operator shall plan and coordinate scheduled outages of telemetering and control equipment and associated communication channels between the affected areas.	<b>Yes</b>
<b>RSAW</b>	Review coordination methods or procedures. <hr/> (R3.): Review communications or logs indicating that coordination occurred.	
<b>Audit Notes:</b>		
<b>VAR-002-1</b>		

<b>R1.</b>	The Generator Operator shall operate each generator connected to the interconnected transmission system in the automatic voltage control mode (automatic voltage regulator in service and controlling voltage) unless the Generator Operator has notified the Transmission Operator.	<b>Yes</b>
<b>RSAW</b>	(R1.): Determine if the Generator Operator operated each generator connected to the interconnected transmission system in the automatic voltage control mode (automatic voltage regulator in service and controlling voltage) If no: <hr/> Determine if the Generator Operator notified the Transmission Operator that it was not operating in automatic voltage control mode.	
<b>R2.</b>	Unless exempted by the Transmission Operator, each Generator Operator shall maintain the generator voltage or Reactive Power output (within applicable Facility Ratings <sup>1</sup> ) as directed by the Transmission Operator.	<b>Yes</b>
<b>RSAW</b>	(R2.): Determine if the Generator Operator is exempt from maintaining its generator voltage or Reactive Power output If not: <hr/> Determine if the Generator Operator maintained the generator voltage or Reactive Power output as directed by the Transmission Operator (within applicable Facility Ratings).	
<b>R2.1</b>	When a generator's automatic voltage regulator is out of service, the Generator Operator shall use an alternative method to control the generator voltage and reactive output to meet the voltage or Reactive Power schedule directed by the Transmission Operator.	<b>Yes</b>
<b>RSAW</b>	(R2.1): Determine if the Generator Operator used an alternative method to control the generator voltage and reactive output to meet the voltage or Reactive Power Schedule directed by the Transmission Operator when the generator's automatic voltage regulator was out of service.	
<b>R2.2</b>	When directed to modify voltage, the Generator Operator shall comply or provide an explanation of why the schedule cannot be met.	<b>Yes</b>
<b>RSAW</b>	(R2.2): Determine if the Generator Operator complied or provided an explanation of why a voltage schedule cannot be met when directed to modify voltage.	
<b>R3.</b>	Each Generator Operator shall notify its associated Transmission Operator as soon as practical, but within 30 minutes of any of the following:	<b>Yes</b>
<b>R3.1</b>	A status or capability change on any generator Reactive Power resource, including the status of each automatic voltage regulator and power system stabilizer and the expected duration of the change in status or capability.	<b>Yes</b>

<b>RSAW</b>	(R3.): Determine if the Generator Operator notified its associated Transmission Operator within 30 minutes for any of the following <hr/> <b>(R3.1):</b> A status or capability change on any generator Reactive Power resource, including the status of each automatic voltage regulator and power system stabilizer and the expected duration of the change in status or capability.	
<b>R3.2</b>	A status or capability change on any other Reactive Power resources under the Generator Operator's control and the expected duration of the change in status or capability.	<b>Yes</b>
<b>RSAW</b>	(R3.): Determine if the Generator Operator notified its associated Transmission Operator within 30 minutes for any of the following <hr/> <b>(R3.2):</b> A status or capability change on any other Reactive Power resources under the Generator Operator's control and the expected duration of the change in status or capability.	
<b>Audit Notes:</b>		

## **Attachment b**

# **BTU's Response to the Notice of Alleged Violation and Proposed Penalty or Sanction, dated March 24, 2008**



P. O. Box 1000  
Bryan, TX 77805  
Phone: 979-821-5700  
Fax: 979-821-5795  
<http://www.btutilities.com>

RECEIVED MAR 27 2008

March 24, 2008

Mark Henry  
Manager, Compliance Review & Verification  
Texas Regional Entity  
7620 Metro Center Drive  
Austin, Texas 78744

Dear Mr. Henry:

BTU QSE Service, Inc., (QSE) hereby notifies Texas Regional Entity that with respect to violation CIP-001-1, R1, QSE does not contest the Alleged Violation(s) or proposed penalty, and agrees to submit and implement a mitigation plan to correct the violation and its underlying causes.

With respect to violation CIP-001-1, R3, QSE does not contest the Alleged Violation(s) and agrees to submit and implement a mitigation plan to eliminate the violation and its underlying causes, but contests the proposed penalty.

QSE respectfully requests that Texas RE reduce or eliminate the proposed penalty for the R3 violation. While there is no dispute that the violation occurred, the BTU Division Manager took immediate action when notified of the violation. He promptly located the Sabotage Reporting Procedures and inserted that document into the operator procedures manual. This action was taken in the presence of the auditors. The Mitigation Plan attached hereto explains that the operator procedures manual cannot be altered or amended without approval of the Division Manager of QSE Power Marketing or the Group Manager of QSE Power Marketing and Power Production. Additionally, QSE has instituted a semi-annual review of all procedures manuals for compliance with NERC Reliability Standards and Requirements. QSE expects that these actions will prevent the recurrence of the noted violations. Furthermore, QSE is anxious to meet with Texas RE to determine whether additional actions may be taken to eliminate and prevent future violations.

While the amount of the proposed penalty is not unconscionable, QSE urges the Texas RE to reexamine its consideration of the factors guiding the determination of the proposed penalty. In particular, QSE is an independent municipal corporation providing services to BTU and other municipally owned utilities. Because of this non-profit structure, even modest penalties will indirectly affect the cost of the services QSE provides to its municipal utility customers. Additionally, the Audit Report acknowledges that the reliability impact of this violation to the bulk power system is "minimal" and that



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interviews with operators indicated that prompt and effective communications would occur with the ISO despite the violation. Moreover, as explained above, QSE's corrective actions were prompt and thorough. Consequently, QSE is hopeful that Texas RE will reconsider the appropriateness of assessing a monetary penalty against QSE under these circumstances.

Of course, QSE is happy to provide additional information to or meet with Texas RE in connection with this audit or any other matter. If a formal request for settlement is necessary or appropriate at this time, please consider this letter such a request.

Please do not hesitate to contact me if you have any questions or comments regarding the foregoing, or any other matter in which I may be of assistance.

Sincerely,



Dan Wilkerson  
BTU General Manager  
BTU QSE Services, Inc.

## **Attachment c**

# **Settlement Agreement by and between BTU and Texas RE, executed June 15, 2009**

**SETTLEMENT AGREEMENT  
OF  
TEXAS REGIONAL ENTITY  
AND  
BTU QSE SERVICES INC.**

**I. Introduction**

1. Texas Regional Entity ("Texas RE") and BTU QSE Services, Inc. ("BTU") enter into this Settlement Agreement ("Agreement") to resolve all outstanding issues arising from Texas RE's determination and findings, pursuant to the North American Electric Reliability Corporation ("NERC") Rules of Procedure, of violations by BTU of NERC Reliability Standards CIP-001-1, Requirement 1 (R1) and CIP-001-1, Requirement 3 (R3) from Texas RE's January 16, 2008 audit of BTU.

**II. Stipulation**

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

**A. Background**

3. BTU is an independent local government corporation which owns and operates generating facilities located in Bryan, Texas. BTU also performs wholesale power marketing, ancillary service bidding, energy scheduling, and settlement activities.
4. BTU was registered on the NERC Compliance Registry for the Generator Operator ("GOP") function for its facilities on June 28, 2007, and has been continuously registered as a GOP for these facilities through the date of this Agreement.
5. Texas RE scheduled and implemented a GOP audit of BTU beginning and concluding on January 16, 2008 ("the Audit"). As a registered GOP, BTU was subject to the Requirements of NERC Reliability Standard CIP-001-1, including Requirements 1 (R1) and 3 (R3) from June 28, 2007 and through the date of the Audit.
6. Texas RE sent BTU a pre-audit questionnaire and the Reliability Standard Audit Work Sheet ("RSAW") for the list of actively monitored NERC Standards approximately 60 days prior to the scheduled Audit date of January 16, 2008. Prior to and during the Audit, Texas RE Audit Team reviewed BTU's responses to the RSAW and pre-audit questionnaire with BTU management and supervisors, and Texas RE Audit Team performed the on-site Audit on January 16, 2008. As part of the Audit, the Texas RE Audit Team interviewed BTU operations personnel and reviewed documents to substantiate those operations personnel were trained and capable of following the procedures to ensure reliable operations from that entity. The Audit Team also interviewed Information Technology, Communications, and Planning personnel, as necessary, to get answers to questions and verify BTU documentation.

**B. Alleged Violations**

7. During the Audit, Texas RE Audit Team discovered two alleged violations of NERC Reliability Standards and Requirements: CIP 001-001-1, R1 and R3 – Sabotage Reporting. On March 19, 2008, Texas RE sent BTU a Notice of Alleged Violation and Proposed Penalty or Sanction (“NAVAPS”), notifying BTU that it had violated these Standards’ Requirements.
8. CIP-001-1 R1 requires that each Reliability Coordinator, Balancing Authority, Transmission Operator, GOP, and Load Serving Entity shall have procedures for the recognition of and for making their operating personnel aware of sabotage events on its facilities and multi-site sabotage affecting larger portions of the Interconnection. This Requirement has a “Medium” Violation Risk Factor (“VRF”).
9. CIP-001-1 R3 requires that each Reliability Coordinator, Balancing Authority, Transmission Operator, GOP, and Load Serving Entity shall provide its operating personnel with sabotage response guidelines, including personnel to contact, for reporting disturbances due to sabotage events. R3 has a “Medium” VRF
10. During the Audit, Texas RE Audit Team discovered that BTU did not have written guidelines or a written procedure, compliant with CIP-001-1, for making operating personnel aware of sabotage events prior to October 3, 2007. This finding was confirmed by BTU Division Manager Gary D. Miller and BTU Compliance Manager Roy Trotter.
11. During the Audit, BTU management provided the Texas RE Audit Team with a written Sabotage Reporting Procedure, dated October 3, 2007, but this document was not included in the BTU operator procedures manual and was not available to operating personnel on January 16, 2008]. In addition, the three operators interviewed by Texas RE during the Audit were not aware of this procedure, but, on the Audit date, they did have available FBI communications’ contact information. During the course of the Audit and after the discovery that the procedure was missing from the operator procedures manual, a BTU Division Manager inserted the existing Sabotage Reporting Procedure, dated October 3, 2007 into the manual to mitigate BTU’s omission.
12. During interviews of BTU operators, Texas RE Audit Team determined that BTU also had a procedure in place (prior to the June 18, 2007 effective date of the NERC Reliability Standards) which requires BTU to inform ERCOT ISO, pursuant to ERCOT Protocol 2.7.2.3, if or when: (a) it is suspected or identified that multi-site sabotage has occurred, or (b) it is suspected or identified that a single-site sabotage of a critical facility has occurred. Protocol 2.7.2.3 further requires that “ERCOT shall inform NERC and governmental agencies of the threat in accordance with current laws and regulations.” The BTU operators were all familiar with this procedure.
13. Based on the documentation provided to Texas RE and the on-site interviews of BTU personnel, Texas RE determined that BTU expended time and money to retain consultants to assist BTU in developing policies and procedures to comply with applicable NERC Reliability Standards, and BTU maintains an acceptable compliance culture. BTU was cooperative with the audit team’s ability to conduct the Audit. BTU has a named and staffed a reliability compliance manager position. BTU procedures were well documented and organized. The only missing procedure was the Sabotage Reporting Procedure referenced above.
14. With regard to the violation of CIP-001-1, R1, Texas RE considered the following factors in analyzing the appropriate penalty to assess: a) this is a documentation

issue, because there was an ERCOT regional procedure in place; (b) BTU QSE Services, Inc. expended money to hire a consultant to expedite BTU QSE Services, Inc.'s development of policies and procedures in an attempt to comply with all NERC Reliability Standards; (c) BTU QSE Services, Inc. corrected its failure to have a fully compliant written procedure in its operating manual during the course of the audit; (d) BTU QSE Services, Inc. cooperated in the audit; (e) BTU QSE Services, Inc. had an alternative procedure in place (under ERCOT Protocols) to notify appropriate parties of a sabotage event that, although not compliant with NERC Reliability Standards, demonstrated that a sabotage reporting procedure was in place; (f) BTU QSE Services, Inc. has an appropriate culture of compliance with a reliability compliance manager; and (g) the violations were deemed not to be violations that put bulk power system reliability at serious or substantial risk, because it had a procedure in place prior to June 28, 2007, that required BTU QSE Services, Inc. to inform ERCOT ISO of suspected or identified sabotage issues and further required ERCOT ISO to notify NERC and governmental agencies of such threats. Texas RE also considered the fact that because BTU QSE Services, Inc. is a governmental (nonprofit) entity. There were no economic benefits or motivation to violate the Requirement.

15. With regard to the violation of CIP-001-1, R3, Texas RE considered the following factors in analyzing the appropriate penalty to assess: (a) this is a documentation issue, (b) BTU expended money to have a consultant create policies and procedures in an attempt to comply with all NERC Reliability Standards; (c) BTU corrected its failure to have a written procedure on October 3, 2007, but it still failed to place the procedure in the operators procedures manual; (d) BTU cooperated to immediately correct its failure to include the written procedure in its operator manual during the course of the audit, (e) BTU had an alternate procedure in place (under the ERCOT Protocols) to notify appropriate parties of a sabotage event, (e) BTU had an otherwise appropriate culture of compliance with a reliability compliance manager, and (f) there is **medium** potential impact on the Bulk Power System (BPS) for this alleged violation.
16. Under these circumstances and given that BTU is a governmental entity and there were no economic benefits acquired to violate any Standard or Requirement, Texas RE has decided to assess BTU \$5,000 in monetary penalties for these alleged violations.

### III. PARTIES' SEPARATE REPRESENTATIONS

#### C. STATEMENT OF TEXAS RE AND SUMMARY OF FINDINGS

17. During its January 16, 2008 Audit of BTU, Texas RE Audit Team found two violations of the NERC Reliability Standards. The first violation was that a written Sabotage Reporting Procedure did not exist prior to October 3, 2007, which was confirmed at the audit by the BTU Division Manager and BTU Compliance Manager. This alleged violation of CIP-001-1, R1 occurred between June 28, 2007 and October 3, 2007 and was issued NERC Violation #: TRE2008000030.
18. The second violation was that the Sabotage Reporting Procedure, even after its October 3, 2007 creation was not provided to BTU operations staff for their use in complying with the procedure or the NERC requirement and was not included in the BTU operator procedures manual. In the Audit Team's presence, the BTU Division

Manager inserted this procedure in the manual. Texas RE's interviews confirmed that none of the BTU operators were aware of this procedure. This alleged violation of CIP-001-1, R3 occurred between June 28, 2007 and January 16, 2008 and was issued NERC Violation #: TRE2008000031.

19. Texas RE and BTU, with NERC's approval, have entered into an agreed upon mitigation plan, which is attached hereto at Exhibit B. Texas RE confirmed BTU's completion of the mitigation plan on May 16, 2008.
20. Texas RE agrees that this agreement is in the best interest of the parties and in the best interest of bulk power system reliability.

#### **D. STATEMENT OF BTU**

21. BTU admits the facts set forth and agreed to the parties herein and admits, for purposes of this Agreement that these facts constitute violations of CIP-001-1, R1 and CIP-0001-1, R3.
22. BTU did not contest the alleged violation of CIP-001-1, R1 or proposed penalty for such violation, and BTU agreed to submit and implement a mitigation plan to correct the violation and its underlying causes. BTU submitted its formal mitigation plan on May 5, 2008 and formally certified that it completed the mitigation plan on May 16, 2008.
23. BTU did not contest the alleged violation of CIP-001-1, R3 and agreed to submit and implement a mitigation plan to eliminate the violation and its underlying causes, but BTU contested Texas RE's proposed penalty. While there is no dispute that the violation occurred, the BTU Division Manager took immediate action when notified of the violation. He promptly located the Sabotage Reporting Procedures and inserted that document into the operator procedures manual. This action was taken in the presence of the auditors.
24. BTU has agreed to the violations and entered into the Settlement Agreement with Texas RE to resolve the violations and to avoid extended litigation and potential uncertainty regarding to the matters described herein, and to effectuate a complete and final resolution of the issues set forth herein. BTU agrees that this Settlement 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**

25. BTU immediately agreed to and has already completed a mitigation plan. As discussed above, BTU created a Sabotage Reporting Procedure on October 3, 2007 to mitigate the violation of CIP-001 R1. To mitigate CIP-001 R3, BTU inserted this procedure into the operator procedures manual on January 16, 2008 and, beginning on January 16, 2008, BTU fully trained each BTU operator on the Sabotage Reporting Procedure during the next shift at which the operator was present, in order to mitigate the alleged violation. This training was confirmed by reviewing BTU's training log.
26. BTU's Mitigation Plan to address the referenced alleged violations was submitted to Texas RE on March 24, 2008 and then resubmitted (correcting a typographical error) on May 5, 2008. The resubmission of the plan included the addition of the NERC



- Compliance Registry ID number and a correction to the assigned NERC Violation ID number. Texas RE accepted the Mitigation Plan, designated MIT-08-0603, on May 14, 2008 and on August 14, 2008, it was approved by NERC and submitted as non-public information to FERC in accordance with FERC orders.
27. For purposes of settling any and all disputes arising from BTU's audit, Texas RE and BTU agree that after the effective date of this Agreement, BTU will pay to Texas RE a monetary penalty in the amount of Five Thousand Dollars (\$5,000) for the alleged violations.
  28. BTU shall pay to Texas RE the penalty of Five Thousand Dollars (\$5,000) within twenty (20) days after this Settlement Agreement is either approved by NERC and approved by the Federal Energy Regulatory Commission (the Commission) through an order or by operation of law. Texas RE shall notify NERC if the payment is not timely received.
  29. Any failure by BTU to make a timely penalty payment or to comply with any of the terms and conditions agreed to herein, or any other conditions of this Settlement Agreement shall be deemed to be either the same alleged violations that initiated this Settlement and/or additional violation(s) and may subject BTU to new or additional enforcement, penalty or sanction actions in accordance with the NERC Rules of Procedure.
  30. If BTU does not make the monetary penalty payment above by the date agreed by the parties herein, interest payable to Texas RE 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**

31. Texas RE 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 Texas RE and BTU 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 the Texas RE will attempt to negotiate a revised settlement agreement with BTU 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.
32. This Agreement shall become effective upon NERC approval and the Commission's approval of the Agreement by order or operation of law as submitted to it or as modified in a manner acceptable to the parties.
33. BTU agrees that this Agreement, when approved by NERC and the Commission, shall represent a final settlement of all matters set forth herein and BTU waives its right to further hearings and appeal, unless and only to the extent that BTU contends that any NERC or Commission action on the Agreement contains one or more material modifications to the Agreement. Texas RE reserves all rights to initiate



enforcement, penalty or sanction actions against BTU in accordance with the NERC Rules of Procedure in the event that BTU fails to comply with the mitigation plan and compliance program agreed to in this Agreement. In the event BTU fails to comply with any of the stipulations, remedies, sanctions or additional terms, as set forth in this Agreement, Texas RE will initiate enforcement, penalty, or sanction actions against BTU to the maximum extent allowed by the NERC Rules of Procedure, up to the maximum statutorily allowed penalty. BTU shall retain all rights to defend against such enforcement actions, also according to the NERC Rules of Procedure.

34. Each of the undersigned warrants that he or she is an authorized representative of the entity designated, is authorized to bind such entity and accepts the Agreement on the entity's behalf.

35. The undersigned representative of each party affirms that he or she has read the Agreement, that all of the matters set forth in the Agreement are true and correct to the best of his or her knowledge, information and belief, and that he or she understands that the Agreement is entered into by such party in express reliance on those representations, provided, however, that such affirmation by each party's representative shall not apply to the other party's statements of position set forth in Section III of this Agreement.

36. The Agreement may be signed in counterparts.

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

Agreed to and accepted:



Larry D. Grimm  
CEO & Chief Compliance Officer  
Texas Regional Entity, a division of  
Electric Reliability Council of Texas, Inc.

6/15/09  
Date



Dan Wilkerson  
President  
BTU QSE Services, Inc.

6/15/09  
Date

## **Attachment d**

**Mitigation Plan designated as MIT-08-0603, dated  
March 24, 2008**

# Mitigation Plan Submittal Form

Date this Mitigation Plan is being submitted: March 24, 2008

If this Mitigation Plan has already been completed:

- Check this box  and
- Provide the Date of Completion of the Mitigation Plan: January 16, 2008

## **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.

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<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 may be used to provide a required Mitigation Plan for review and approval by Texas Regional Entity (Texas RE) and NERC.
- The Mitigation Plan shall be submitted to the Texas RE 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 Texas RE 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.
- Texas RE 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: BTU QSE Services, Inc.

Company Address: 630 Atkins St.  
Bryan TX 77801

NERC Compliance Registry ID *[if known]*: NCR04024

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

Name: Gary D. Miller

Title: BTU Group Manager, QSE Power Marketing & Power Production

Email: gmiller@btutilities.com

Phone: 979-821-5621

## **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]	Texas RE Violation ID # [if known ]	Requirement Violated (e.g. R3.2)	Violation Date <sup>(*)</sup>
aaaaaYYYYnnnnn	1234577890	Rn.n.n	MM/DD/YY
TRE200800029	TRE200800029	<b>R1</b>	June 18, 2007 – October 3, 2007
TRE200800030	TRE200800030	<b>R3</b>	June 18, 2007 – January 18, 2008

(\*) Note: The Violation Date shall be: (i) 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 Texas RE. Questions regarding the date to use should be directed to the Texas RE.

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

**CIP-001-1, R1: Sabotage Reporting Procedure was not created prior to June 18, 2007.**

**CIP-001-1, R3: Administrative oversight in ensuring that the Sabotage Reporting Procedure document was placed in the operator procedures binder.**

[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:

**CIP-001-1, R1: Sabotage Reporting Procedure was created on October 3, 2007.**

**CIP-001-1, R3: The BTU Division Manager, QSE Power Marketing inserted the procedure in the BTU operator procedures binder on January 18, 2008. Additionally, each QSE Operator was fully trained on the procedure on the next shift in which the Operator was present.**

[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 creation of the Sabotage Reporting Procedure, its insertion in the operator procedures manual and the subsequent training of QSE Operations staff on the Procedure effectively corrected the violation. Access to the procedures manual is limited to QSE Operations staff. Only the BTU Division Manager of QSE Power Marketing and the BTU Group Manager of QSE Power Marketing and Power Production are authorized to remove documents from the procedures manual. These procedures can only be changed or adopted by action of the Division Manager.

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

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

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

## 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, Texas RE for acceptance by Texas RE 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 BTU Group Manager, QSE Power Marketing and Power Production.
  2. I am qualified to sign this Mitigation Plan on behalf of BTU QSE Services, Inc.
  3. I have read and understand BTU QSE Services, Inc.'s obligations to comply with Mitigation Plan requirements and ERO remedial action directives as well as ERO documents, including, but not limited to, the NERC Rules of Procedure, 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. BTU QSE Services, Inc., agrees to be bound by, and comply with, the Mitigation Plan, including the timetable completion date, as approved by Texas RE and approved by NERC.

**Authorized Individual Signature**



(Electronic signatures are acceptable; see CMEP)

Name (Print): Gary D. Miller

Title: Group Manager, QSE Power Marketing and Power Production

Date: May 5, 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]

**Submit completed and signed forms to [mitigation@texasre.org](mailto:mitigation@texasre.org)**

Please direct any questions regarding completion of this form to:

Texas Regional Entity  
Rashida Williams  
512-225-7056  
[rashida.williams@texasre.org](mailto:rashida.williams@texasre.org)

## **Attachment e**

# **BTU's Certification of Completion of the Mitigation Plan, dated May 16, 2008**



205 E. 28<sup>th</sup> St. <77803>  
P.O. Box 1000  
Bryan, TX 77805  
Phone: 979-821-5715  
FAX: 979-821-5795  
<http://www.btutilities.com>

May 16, 2008

Mark Henry  
Manager, Compliance Review & Verification  
Texas Regional Entity  
7620 Metro Center Drive  
Austin, Texas 78744

Mark:

In response to your letter of May 14, I am pleased to inform you that BTU has completed the Mitigation Plan submitted to TRE on March 24, 2008 regarding the NERC Violations listed below.

NERC Violation ID	Standard	Requirement
TRE200800029	CIP-001	R1
TRE200800030	CIP-001	R3

I have attached a copy of the Mitigation Plan and supporting documentation verifying completion of the plan. For supporting documentation, I have included a copy of BTU QSE's training log which details training that individuals have attended. For clarification, I have highlighted in yellow the training specifically targeted to address mitigation of this violation. Additionally, BTU QSE has developed and attached a new Operating Procedure that addresses maintenance of the QSE's Operating Procedures Manual.

I look forward to final resolution of this matter and please let me know if you have any questions or concerns.

Sincerely,

Dan Wilkerson  
General Manager

## **Attachment f**

### **Texas RE's Verification of Completion of the Mitigation Plan, dated May 16, 2008**



May 16, 2008

Re: Texas Regional Entity (Texas RE) Mitigation Plan Verification of Completion

Registered Entity: BTU QSE Services, Inc. (BTU)

Violation Number(s): TRE200800029, TRE200800030

It was discovered during a January 16, 2008 audit that BTU that BTU did not have guidelines or a written procedure for making operating personnel aware of sabotage events prior to October 3, 2007 as required by CIP-001-1, R1 (TRE200800029). BTU created a sabotage reporting document, dated October 3, 2007. This document was reviewed by Texas RE auditors during the audit and found to be compliant with CIP-001-1, R1.

It was also discovered during a January 16, 2008 audit that BTU's sabotage reporting document was not available to operating personnel as required by CIP-001, R3 (TRE200800030). During the audit, BTU inserted the procedure into the operators' procedures manual as part of their mitigation plan. BTU identified in their mitigation plan that operators would be trained on the procedure. BTU provided their training log as further evidence of completion of its mitigation plan. Texas RE's review of the training log showed that the company's operators received training of the Sabotage Reporting Procedure.

Based on evidence presented by BTU QSE Services, Inc. and reviewed by Texas RE, this letter confirms the above mentioned mitigation plans are complete.



**Attachment g**

**Notice of Filing**

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

BTU QSE Services, Inc.

Docket No. NP09-\_\_\_\_-000

NOTICE OF FILING  
July 10, 2009

Take notice that on July 10, 2009, the North American Electric Reliability Corporation (NERC) filed a Notice of Penalty regarding BTU QSE Services, Inc. in the Texas Regional Entity 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