



NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

June 24, 2009

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

Re: NERC Notice of Penalty regarding U.S. Army Corps of Engineers—Tulsa District, 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 the U.S. Army Corps of Engineers—Tulsa District (“COE—Tulsa District”),<sup>2</sup> NERC Registry ID: NCR04156,<sup>3</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 of NERC’s Compliance Monitoring and Enforcement Program (“CMEP”).<sup>4</sup> COE—Tulsa District self-certified on October 3, 2007 non-compliance with Reliability Standard PRC-005-1 Requirement (R) 1.1 and R2<sup>5</sup> for its Denison Project Generator.<sup>6</sup> For the reasons stated below, NERC requests that the Commission issue a decision in this case clearly deciding the jurisdictional issue presented, even if COE—Tulsa District chooses not to seek review of this NERC decision.

### **Statement of Findings Underlying the Violations**

This Notice of Penalty incorporates the findings and justifications set forth in the Notice of Confirmed Violation and Proposed Penalty or Sanction (NOCV) issued on February 20, 2008 by Texas RE. The details of the findings and basis for the penalty are set forth herein. This Notice

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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> COE—Tulsa District referred to in this filing is registered on the NERC Compliance Registry under the NERC ID #NCR04156, and is registered in the Texas Regional Entity. Note that there is a COE —Tulsa District that also is registered as a separate entity in the Southwest Power Pool under NERC ID#NCR06038. The latter entity is not addressed in this filing.

<sup>3</sup> Texas RE confirmed that COE —Tulsa District was included on the NERC Compliance Registry as of May 30, 2007 and was subject to the requirements of the NERC Reliability Standards set forth herein.

<sup>4</sup> See 18 C.F.R § 39.7(c)(2).

<sup>5</sup> Other Reliability Standard Violations (FAC-008 and FAC-009) were identified in the self-certification. These violations will be addressed in a separate NOP filing.

<sup>6</sup> As discussed below, Texas RE subsequently dismissed this violation.

of Penalty filing contains the basis for approval of this Notice of Penalty 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 Reliability Standard violated by COE—Tulsa District.

Region	Registered Entity	NOC ID	NERC Violation ID	Reliability Std.	Req. (R)	VRF	Total Penalty (\$)
TRE	COE – Tulsa District	NOC052	TRE200700027	PRC-005-1	1.1	HIGH	\$0

PRC-005-1 requires that all generation Protection Systems affecting the reliability of the Bulk Electric System be maintained and tested. PRC-005-1 R1 specifically requires each Generator Owner 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 Electric System. R1.1 requires that this testing program include the maintenance and testing system and their basis. During the 2007 annual self-certification, COE—Tulsa District reported non-compliance with PRC-005-1 R1.1, because, although it had a program for testing and maintenance, the testing and maintenance program did not include the basis used to establish their testing intervals. Texas RE identified the violation on November 14, 2007, and determined it to be a documentation issue because, although the protective systems were tested and maintained at regular intervals, COE—Tulsa District was unsure if documentation was available to serve as a basis for the testing intervals. PRC-005-1 R1.1 has a “High” VRF. Texas RE determined to exercise discretion and to assess no penalty for this violation. Texas RE determined that COE—Tulsa District had a testing program in place with intervals for testing, but that COE—Tulsa District was unsure if documentation was available to serve as a basis for the testing intervals. Accordingly, Texas RE determined the violation did not pose a serious or substantial risk to the reliable operation of the bulk power system.

Texas RE determined that the violation by COE—Tulsa District of PRC-005-1 R1.1 began on June 28, 2007, the date of its registration as a Generator Owner. The Mitigation Plan was due to be completed by March 31, 2009. COE—Tulsa District certified the Mitigation Plan for PRC-005-1 R1.1 as complete on February 23, 2009. On May 8, 2009 Texas RE verified that COE—Tulsa District completed its Mitigation Plan.

## Background

As noted above, COE—Tulsa District self-certified on October 3, 2007 non-compliance with Reliability Standard PRC-005-1 R1.1 and R2 for its Denison Project Generator. In its October 3, 2007, self-certification letter, COE—Tulsa District reiterated arguments presented in earlier letters sent from the United States Army Corps of Engineers (the “Corps”) to the Commission that were based on the Corps’ belief that it, as a governmental entity, was not required to comply with the Energy Policy Act of 2005 (“EPAct 2005” or the “Act”). The Corps stated that, because of this uncertainty, it was not in a position to register with its respective reliability organization

(contrary to the fact that COE—Tulsa District was registered within the Texas RE footprint as of May 30, 2007), but that it would strive to meet the electric reliability standards established pursuant to the Act, subject to the availability of funds appropriated by Congress and project operation requirements.<sup>7</sup>

In response to COE—Tulsa District’s self-certification of non-compliance with Reliability Standard PRC-005-1 R1.1 and R2, Texas RE issued an Initial Notice of Alleged Violation, dated October 31, 2007, in which it confirmed the non-compliance of the Reliability Standards reported in the self-certification except for PRC-005-1 R2, which Texas RE dismissed because it determined that there were no violations of this requirement. Although there had been no requests by the regional reliability organization to COE—Tulsa District for documentation of its Protection System maintenance and testing program, Texas-RE determined that COE—Tulsa District could have provided the test records had they been requested because COE—Tulsa District was up to date on its relay testing. Texas RE, therefore, determined that COE—Tulsa District was not in violation of PRC-005-1 R2.

Texas RE issued a Notice of Alleged Violation and Proposed Penalty or Sanction (“NAVAPS”) on November 14, 2007. COE—Tulsa District responded to the NAVAPS on November 20, 2007, but did not make the required election pursuant to Section 5.1 of the CMEP of essentially agreeing with/not contesting or contesting the alleged violations and/or penalty. Instead, COE—Tulsa District asserted that the self-reporting data provided on October 3, 2007 by COE—Tulsa District to ERCOT was provided on a voluntary basis and that “this submission does not constitute entity registration or a recognition of jurisdiction by the United States Army Corps of Engineers.” COE—Tulsa District stated that “the U.S. Army Corps of Engineers is not in a position to register with our respective reliability organization.”<sup>8</sup> However, COE—Tulsa District stated that, in order “[t]o avoid substantial changes to preliminary mitigation plans as a result of the forthcoming national policy, a mitigation plan for this non-compliance will not be submitted until this national policy has been completed,” and that it will “voluntarily conform to the reliability standards...[t]o the extent our current appropriations allow us to comply with the Act ...”<sup>9</sup> In fact, COE—Tulsa District was listed on the NERC Compliance Registry as a Registered Entity as of June 28, 2007.

Subsequently, Texas RE issued a letter to COE—Tulsa District,<sup>10</sup> on January 17, 2008, requesting that an acceptable Mitigation Plan be submitted to address the Alleged Violations. In this letter, Texas RE acknowledged COE—Tulsa District’s letter of November 20, 2007, disputing COE—Tulsa District’s obligation to comply with Section 215 of the Act, but stated that COE—Tulsa District is required to comply with the NERC Reliability Standards because it is a user, owner, or operator of the bulk power system in accordance with the Act. Texas RE directed COE—Tulsa District to submit a Mitigation Plan within ten (10) days or risk being

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<sup>7</sup> See Letter from Department of the Army, Southwestern Division, Corps of Engineers, to ERCOT, c/o Ms. Rashida Williams, dated October 3, 2007.

<sup>8</sup> See Letter from Department of the Army, Southwestern Division, Corps of Engineers, to ERCOT, c/o Ms. Rashida Williams, dated November 20, 2007.

<sup>9</sup> *Id.* at 1.

<sup>10</sup> see Letter from Texas RE to COE—Tulsa District Re: Request for Acceptable Mitigation Plan, dated January 17, 2008.

subject to new compliance proceedings that would subject COE—Tulsa District’s Alleged Violations to be treated as having occurred after June 18, 2007 (the date the Reliability Standards became mandatory and enforceable), and thereby subjecting COE—Tulsa District to mandatory and enforceable penalties and sanctions by Texas RE and NERC.

COE—Tulsa District responded to TRE’s January 17, 2008, letter on January 25, 2008, asserting that it was unclear whether COE—Tulsa District is subject to the requirements of Section 215 of the Act, but that it intended to “make all reasonable efforts to voluntarily comply with [the] reliability standards while remaining within the funding level provided by the Congress.”<sup>11</sup> COE—Tulsa District stated that it was awaiting receipt of national policy guidance regarding submission of Mitigation Plans, and projected that it would be able to provide a final regional Mitigation Plan by October 2008.

COE—Tulsa District submitted a Mitigation Plan (MIT-07-0062) on January 30, 2008 to address the alleged violation of Reliability Standard PRC-005-1 R1.1 (discussed in further detail, below), but again responded to Texas RE’s Alleged Violations detailed in the NAVAPS in a letter to NERC on February 22, 2008.<sup>12</sup> In that letter, COE—Tulsa District reiterated its belief that that the Act does not apply to COE—Tulsa District because it does not contain a clear, unequivocally expressed waiver of sovereign immunity, which, COE—Tulsa District argues, is necessary for any entity to exercise jurisdiction over a federal agency. COE—Tulsa District continued that despite its belief that the Act does not apply to COE—Tulsa District, it intended to make all reasonable efforts to voluntarily comply with NERC Reliability Standards so long as COE—Tulsa District can do so within the funding levels authorized to it by Congress.

### **Applicability of NERC’s Mandatory Reliability Standards to COE—Tulsa District**

As added by Section 1211 of the Energy Policy Act of 2005 (“EPAAct 2005”), FPA Section 215(b)(1) provides, in pertinent part, that “[t]he Commission shall have jurisdiction . . . over . . . all users, owners, and operators of the bulk-power system, including but not limited to the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section.” Following the cross-reference in this language, the entities described in Section 201(f), 16 U.S.C. § 824(f), are “the United States, a State or any political subdivision of a State, an electric cooperative that receives financing under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) or that sells less than 4,000,000 megawatt hours of electricity per year, or any agency, authority, or instrumentality of any one or more of the foregoing, or any corporation which is wholly owned, directly or indirectly, by any one or more of the foregoing . . . .”

Because they are described in Section 201(f), agencies or instrumentalities of the United States are expressly included within the term “users, owners, and operators of the bulk-power system” in Section 215 and made subject to the Commission’s jurisdiction to both approve and enforce

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<sup>11</sup> See Letter from Department of the Army, Southwestern Division, Corps of Engineers, to ERCOT, c/o Ms. Rashida Williams, dated January 25, 2008.

<sup>12</sup> See Letter from Department of the Army, Southwestern Division, Corps of Engineers, to North American Electric Reliability Corporation, c/o Messrs. David Hilt and Tim Kucey, dated February 22, 2008.

Reliability Standards. The requirement in FPA Section 215(b)(1) that all users, owners and operators of the bulk-power system must comply with Reliability Standards that take effect under Section 215 thus applies to Federal entities.<sup>13</sup>

Through Section 1295 of EPAct 2005, Congress also made technical and conforming amendments to the FPA that were necessitated by the substantive changes to the FPA, including the addition of Section 215. EPAct 2005 amended FPA Section 201(b), which establishes the applicability of Part II of the FPA, to expressly add “Section 215,” to the list of sections of the FPA enumerated in Section 201(b)(2), and to add “Notwithstanding section 201(f).” As amended, Section 201(b)(2) reads, in pertinent part:

Notwithstanding section 201(f), the provisions of sections . . . 215. . . shall apply to the entities described in such provisions, and such entities shall be subject to the jurisdiction of the Commission for purposes of carrying out such provisions and for purposes of applying the enforcement authorities of this Act with respect to such provisions.

For purposes of Section 201(b)(2), the entities described in Section 215 are “all users, owners and operators of the bulk-power system,” which includes the United States and other entities described in Section 201(f). The specific provisions of Section 201(b)(2) override the general language of Section 201(f) that excludes the United States from the application of Part II of the FPA. Therefore, Section 201(b)(2) provides further confirmation that the United States is subject to Section 215 and to FERC jurisdiction both for carrying out the provisions of Section 215 and for enforcing those provisions.

The statute delegates the authority to enforce Section 215 to the ERO. Section 215(e)(1) provides that “[t]he ERO may impose. . . a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d),” after completing required procedural steps and making required findings. As the United States is included as a “user or owner or operator of the bulk-power system” pursuant to Section 215(b)(1), Section 215(e)(1) constitutes an unequivocal expression of Congress’ intent that Federal entities – like all other users, owners, or operators of the bulk-power system that are subject to Reliability Standards, are subject to enforcement actions by the ERO for violations of those standards. This clear statement of the ERO’s enforcement authority operates to waive any claim of Federal sovereign immunity that would present an obstacle to an enforcement action by the ERO for violation of a Reliability Standard.

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<sup>13</sup> Additionally, FERC has issued Orders upholding the registration and inclusion of agencies or instrumentalities of the United States on NERC’s compliance registry. *See Order On Appeal of Electric Reliability Organization Compliance Registry Determination*, 124 FERC ¶61,072 (July 21, 2008), wherein the Commission affirmed that NERC properly included the U.S. Department of Energy, Portsmouth/Paducah Project Office on the NERC compliance registry as a transmission owner, transmission operator, and distribution provider. *See also Order Upholding Electric Reliability Organization Compliance Registry Determination and Conditionally Directing Additional Registration*, 125 FERC ¶61,294 (December 18, 2008), wherein the Commission affirmed NERC’s decision to register the Southeastern Power Administration on the NERC compliance registry as a transmission owner. The Commission also directed NERC to register the U.S. Army Corps of Engineers (Corps) within the SERC region as a transmission operator to address a potential reliability gap, unless the Corps demonstrates why it should not be registered. No filings contesting such registration were submitted by the Corps in this docket since the issuance of the December 18, 2008 Order.

The legislative history of EPCRA 2005 supports the express language of Section 215 extending enforcement of Reliability Standards to all users, owners and operators, including Federal entities. The origins of FPA Section 215 can be traced to the Thomas Amendment adopted by the United States Senate in 2002. During the course of debate on the amendment, its author, Senator Thomas, explained that “[t]he new reliability organization will have enforcement powers, with real teeth to ensure reliability. The amendment provides that mandatory reliability rules will apply to all users of the transmission grid. There are no loopholes. No one will be exempt.” S1874 Congressional Record, March 14, 2002. Senator Bingaman, who while opposing the Thomas Amendment was a proponent of a mandatory system of reliability rules, recognized that “[t]he reliability system needs to apply to all users. The rules need to be enforceable. There need to be penalties if you do not comply with the rules.” S1874 Congressional Record, March 14, 2002. A later analysis of substantively similar reliability legislation by the General Accounting Office also acknowledged the applicability of reliability rules to Federal entities: “All users, owners and operators of the bulk-power system would have to comply with the reliability standards... We understand this would include both private entities and Federal entities (such as the Tennessee Valley Authority, the Bonneville Power Administration, and other federal marketing agencies), among others.” General Accounting Office, *Draft Legislation Concerning an Electric Reliability Organization*, March 18, 2003, page 3, footnote 5.

Enforcement of penalties and other appropriate sanctions on all users is an integral part of the statute and the purpose of Reliability Standards. If the Reliability Standards are not enforceable against all users, owners or operators of the bulk-power system, the result would be a return to the system of voluntary Reliability Standards. This clearly would not be consistent with the intent of Congress to put in place a mandatory system to replace the voluntary system of Reliability Standards that had been in effect since the 1960s. Accordingly, NERC is hereby issuing this Notice of Penalty to COE—Tulsa District, in accordance with the authority granted to it under the Act, the Commission’s Rules and Regulations and Orders, and the NERC Rules of Procedure including Appendix 4C of NERC’s CMEP.

### **Status of Mitigation Plan**

A mitigation plan designated as MIT-07-0602 to address NERC Violation # TRE200700027 was submitted by COE—Tulsa District on January 30, 2008, and was accepted by Texas RE on February 11, 2008. The Mitigation plan was approved by NERC on August 14, 2008. It was submitted to FERC as non-public information on August 14, 2008, in accordance with FERC orders.

COE—Tulsa District identified the cause of violation PRC-005-1 R1.1 in Mitigation Plan MIT-07-0602, resulting from the Corps’ failure to have a basis for the testing intervals for its protection systems. COE—Tulsa District stated that it planned to place the completed basis for the testing interval on file and update it as new equipment is installed. For the equipment that did not have a manufacturers’ recommendation, COE—Tulsa District stated that it would determine a suitable recommendation. COE—Tulsa District further stated that it expected to be

in full compliance with the Reliability Standard by November 2008.<sup>14</sup> COE—Tulsa District requested an extension of the Mitigation Plan completion date on September 3, 2008, until March 2009, which was granted by Texas RE. COE—Tulsa District certified completion of the Mitigation Plan on February 23, 2009. Texas RE verified that Texas RE completed the Mitigation Plan by reviewing COE—Tulsa District’s information showing the basis for testing intervals that was based on the manufacturer’s recommendation. Texas RE also reviewed USACE—Tulsa District’s sample equipment listing, including the categories for “Next Scheduled Test Date”, the “Last Date Tested”, and “Test Date”. Based on this review, Texas RE verified on May 8, 2009 completion of COE-Tulsa District’s Mitigation Plan.

## **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, the NERC BOTCC reviewed the NOCV and supporting documentation on February 8, 2009. The BOTCC approved the assessment of a zero dollar (\$0) penalty against COE—Tulsa District based upon Texas RE’s findings and determinations, the NERC BOTCC’s review of the applicable requirements of the Commission-approved Reliability Standards, and the underlying facts and circumstances of the violation at issue.

In reaching this determination, the NERC BOTCC considered the following: (1) the violation occurred in 2007, was reported in 2007, and was corrected in 2009; (2) the violation of PRC-005-1 was a failure by COE—Tulsa District to have in place testing intervals for Protection Systems, including their basis; (3) this was the first offense by COE—Tulsa District of the referenced Reliability Standard and its requirement; (4) there were no repetitive violations by COE—Tulsa District; and (5) the violation was deemed by Texas RE not to be a violation that put bulk power system reliability at serious or substantial risk because, given that, while deficient, there were documented Facility Ratings methodology and testing and maintenance programs in place.

Therefore, NERC believes that the proposed zero 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 thirty (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.

### **Need for Clear Commission Decision on Jurisdiction**

As noted above, the COE – Tulsa District has challenged NERC’s jurisdiction (and therefore that of the Commission) under Section 215 of the FPA. For the reasons detailed in this Notice of Penalty, NERC is clear that the COE – Tulsa District is subject to mandatory Reliability

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<sup>14</sup> The original anticipated date was August 2008.

Standards adopted under Section 215. Other parts of the Corps of Engineers, as well as other federal entities, are raising jurisdictional challenges similar to the ones being raised by COE – Tulsa District in a number of enforcement cases pending before NERC and the Regional Entities. It is in the public interest and in the interest of an efficient and effective implementation of Section 215 that the Commission issue a clear decision in this case on the scope of NERC's and the Commission's jurisdiction under Section 215. It is a straightforward legal question. If, contrary to NERC's position, the Corps of Engineers and other federal agencies are correct that they are outside the scope of Section 215, then neither NERC nor the Commission has a basis for issuing any order in this matter. Therefore, in the event the COE – Tulsa District does not ask to have the Commission review this case, NERC requests that the Commission nonetheless issue a decision in this matter on the scope of jurisdiction under Section 215.

### **Attachments Included as Part of the Notice of Penalty**

The attachments included as part of the Notice of Penalty include the following documents and material:

1. 2007 Self-Certification Worksheet, COE—Tulsa District of Engineers, dated October 3, 2007, included as Attachment a;
2. COE—Tulsa District Response to the Notice of Alleged Violation and Proposed Penalty and Sanction, dated November 20, 2007, included as Attachment b;
3. Mitigation Plan Submittal Form for MIT-07-0062, dated January 30, 2008, included as Attachment c;
4. COE—Tulsa District Second Response to the Notice of Alleged Violation and Proposed Penalty and Sanction, dated January 25, 2008, included as Attachment d;
5. COE—Tulsa District Response to the Notice of Confirmed Violation and Proposed Penalty or Sanction, dated February 22, 2008, included as Attachment e;
6. Certification of Completion of Mitigation Plan from COE—Tulsa District, dated February 23, 2009, included as Attachment f; and
7. Verification of Completion of Mitigation Plan from Texas RE, dated May 8, 2009, included as Attachment g.

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

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

## 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 regulations to permit more than two people on the service list.

Rebecca J. Michael\*  
Assistant General Counsel  
Holly A. Hawkins  
Attorney\*  
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(469)-487-7189 – facsimile  
Sherman.R.Jones@swt03.usace.army.mil

## Conclusion

For the reasons stated, NERC requests that the Commission issue a decision in this case affirming the Notice of Penalty and deciding that COE – Tulsa District is within the scope of NERC's and the Commission's jurisdiction under Section 215.

Respectfully submitted,

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Vice President and General Counsel  
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cc: U.S. Army Corps of Engineers—Tulsa District  
Texas Regional Entity

Attachment(s)

## **Attachment a**

### **Self-Certification Report of Corps of Engineers – Tulsa District of Engineers, dated October 3, 2007**



Reply to  
Attention of:

**DEPARTMENT OF THE ARMY**  
**SOUTHWESTERN DIVISION, CORPS OF ENGINEERS**  
**1100 COMMERCE STREET**  
**DALLAS, TEXAS 75242-0216**

October 3, 2007

Office of Counsel

Ms. Rashida Williams  
ERCOT  
By email to [treselfcert@ercot.com](mailto:treselfcert@ercot.com)

Dear Ms. Williams:

Enclosed are the completed self-certification forms for the Southwestern Division of the United States Army Corps of Engineers, which are sent in response to your email dated August 2, 2007, Subject: TRE Self Certification for Generator Owners.

We must reiterate that based on uncertainties in the 2005 Energy Policy Act, the Corps is not in a position to register with our respective reliability organizations. However, we will strive to meet the electric reliability standards established pursuant to the Energy Policy Act, subject to the availability of funds appropriated by Congress and the requirements of project operations. We again refer you to the letter from Mr. John Paul Woodley, Jr., Assistant Secretary of the Army (Civil Works) to Mr. Joseph T. Kelliher, Chairman, Federal Energy Regulatory Commission. The May 11, 2007, letter explains the Army's initial view on the applicability of the standards to government-owned facilities until a government-wide position is developed. We also refer you to the letter from Mr. Morris Tanner, dated August 8, 2007, explaining the Southwestern Division's position.

If you have any questions, please do not hesitate to call me at (469) 487-7015.

Sincerely,

A handwritten signature in black ink that reads "Dava-Kay Kaitala".

Dava-Kay Kaitala  
Deputy Division Counsel

Enclosures

## TRE 2007 Self-Certification for Generator Owner

INSTRUCTIONS: This form is intended for entities that are NERC registered as a Generator Owner. Please fill in General Information in Part 1. In Part 2, respond YES, NO, or N/A for each item under column D, "Full Compliance for 2007?". If "NO", please attach a short explanation separately; if "YES" or "N/A", no further explanation is required. Additional documentation to validate responses is not required with the form submittal but may be requested in the future. Email completed forms to: [treselfcert@ercot.com](mailto:treselfcert@ercot.com), by 10/1/07, after approval by a company executive officer (named on the form in Part 1).

### Part 1- GENERAL INFORMATION

Date:	28-Sep-07
Entity Name:	U.S. Army Corps of Engineers
Contact Name:	Sherman Jones
Contact Phone:	469-487-7043
Contact E-mail:	<a href="mailto:Sherman.R.Jones@us.army.mil">Sherman.R.Jones@us.army.mil</a>
Officer name:	Kamau Sadiki
Officer title:	National Hydropower Business Line Manager

## Part 2- NERC Reliability Standards Self-Certification

Standard Number	Requirement Number	Text of Requirement	Full Compliance for 2007?
EOP-009-0	R2.	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.	N/A
FAC-008-1	R1.	The Transmission Owner and Generator Owner shall each document its current methodology used for developing Facility Ratings (Facility Ratings Methodology) of its solely and jointly owned Facilities. The methodology shall include all of the following:	NO
FAC-008-1	R1.1.	A statement that a Facility Rating shall equal the most limiting applicable Equipment Rating of the individual equipment that comprises that Facility.	NO
FAC-008-1	R1.2.	The method by which the Rating (of major BES equipment that comprises a Facility) is determined.	NO
FAC-008-1	R1.2.1.	The scope of equipment addressed shall include, but not be limited to, generators, transmission conductors, transformers, relay protective devices, terminal equipment, and series and shunt compensation devices.	NO
FAC-008-1	R1.2.2.	The scope of Ratings addressed shall include, as a minimum, both Normal and Emergency Ratings.	NO
FAC-008-1	R1.3.	Consideration of the following:	NO
FAC-008-1	R1.3.1.	Ratings provided by equipment manufacturers.	NO
FAC-008-1	R1.3.2.	Design criteria (e.g., including applicable references to industry Rating practices such as manufacturer's warranty, IEEE, ANSI or other standards).	NO
FAC-008-1	R1.3.3.	Ambient conditions.	NO
FAC-008-1	R1.3.4.	Operating limitations.	NO
FAC-008-1	R1.3.5.	Other assumptions.	NO

Standard Number	Requirement Number	Text of Requirement	Full Compliance for 2007?
FAC-008-1	R2.	The Transmission Owner and Generator Owner shall each make its Facility Ratings Methodology available for inspection and technical review by those Reliability Coordinators, Transmission Operators, Transmission Planners, and Planning Authorities that have responsibility for the area in which the associated Facilities are located, within 15 business days of receipt of a request.	NO
FAC-008-1	R3.	If the Reliability Coordinator, Transmission Operator, Transmission Planner, or Planning Authority provides written comments on its technical review of a Transmission Owner's or Generator Owner's Facility Ratings Methodology, the Transmission Owner or Generator Owner shall provide a written response to that commenting entity within 45 calendar days of receipt of those comments. The response shall indicate whether a change will be made to the Facility Ratings Methodology and if no change will be made to that facility Ratings Methodology, the reason why.	NO
FAC-009-1	R1.	The Transmission Owner and Generator Owner shall each establish Facility Ratings for its solely and jointly owned Facilities that are consistent with the associated Facility Ratings Methodology.	NO
FAC-009-1	R2.	The Transmission Owner and Generator Owner shall each provide Facility Ratings for its solely and jointly owned Facilities that are existing Facilities, new Facilities, modifications to existing Facilities and re-ratings of existing Facilities to its associated Reliability Coordinator(s), Planning Authority(ies), Transmission Planner(s), and Transmission Operators(s) as scheduled by such requesting entities.	NO
IRO-004-1	R4.	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.	YES

Standard Number	Requirement Number	Text of Requirement	Full Compliance for 2007?
PRC-005-1	R1.	Each Transmission Owner and any Distribution Provider that owns a transmission Protection System and each Generator Owner that owns a generation Protection System shall have a Protection System maintenance and testing program for Protection Systems that affect the reliability of the BES. The program shall include:	
PRC-005-1	R1.1.	Maintenance and testing intervals and their basis.	NO
PRC-005-1	R1.2.	Summary of maintenance and testing procedures.	YES
PRC-005-1	R2.	Each Transmission Owner and any Distribution Provider that owns a transmission Protection System and each Generator Owner that owns a generation Protection System shall provide documentation of its Protection System maintenance and testing program and the implementation of that program to its Regional Reliability Organization on request (within 30 calendar days). The documentation of the program implementation shall include:	NO
PRC-005-1	R2.1.	Evidence Protection System devices were maintained and tested within the defined intervals.	YES
PRC-005-1	R2.2.	Date each Protection System device was last tested/maintained.	YES
PRC-016-0	R1.	The Transmission Owner, Generator Owner, and Distribution Provider that owns an SPS shall analyze its SPS operations and maintain a record of all misoperations in accordance with the Regional SPS review procedure specified in Reliability Standard PRC-012-0_R1.	N/A
PRC-016-0	R2.	The Transmission Owner, Generator Owner, and Distribution Provider that owns an SPS shall take corrective actions to avoid future misoperations.	N/A
PRC-016-0	R3.	The Transmission Owner, Generator Owner, and Distribution Provider that owns an SPS shall provide documentation of the misoperation analyses and the corrective action plans to its Regional Reliability Organization and NERC on request (within 90 calendar days).	N/A
PRC-017-0	R1.	The Transmission Owner, Generator Owner, and Distribution Provider that owns an SPS shall have a system maintenance and testing program(s) in place. The program(s) shall include:	N/A
PRC-017-0	R1.1.	SPS identification shall include but is not limited to:	N/A

Standard Number	Requirement Number	Text of Requirement	Full Compliance for 2007?
PRC-017-0	R1.1.1.	Relays.	N/A
PRC-017-0	R1.1.2.	Instrument transformers.	N/A
PRC-017-0	R1.1.3.	Communications systems, where appropriate.	N/A
PRC-017-0	R1.1.4.	Batteries.	N/A
PRC-017-0	R1.2.	Documentation of maintenance and testing intervals and their basis.	N/A
PRC-017-0	R1.3.	Summary of testing procedure.	N/A
PRC-017-0	R1.4.	Schedule for system testing.	N/A
PRC-017-0	R1.5.	Schedule for system maintenance.	N/A
PRC-017-0	R1.6.	Date last tested/maintained.	N/A
PRC-017-0	R2.	The Transmission Owner, Generator Owner, and Distribution Provider that owns an SPS shall provide documentation of the program and its implementation to the appropriate Regional Reliability Organizations and NERC on request (within 30 calendar days).	N/A

**EXPLANATIONS ATTACHED TO TRE 2007 SELF-CERTIFICATION FOR GENERATOR OWNER US ARMY CORPS SWD**

<b>Standard Number</b>	<b>Requirement Number</b>	<b>EXPLANATIONS FOR NON-COMPLIANCE</b>
EOP-009-0	R2.	N/A
FAC-008-1	R1.	WE ARE REVIEWING AND UPDATING OUR METHODOLOGIES
FAC-008-1	R1.1.	WE ARE REVIEWING AND UPDATING OUR METHODOLOGIES
FAC-008-1	R1.2.	WE ARE REVIEWING AND UPDATING OUR METHODOLOGIES
FAC-008-1	R1.2.1.	WE ARE REVIEWING AND UPDATING OUR METHODOLOGIES
FAC-008-1	R1.2.2.	WE ARE REVIEWING AND UPDATING OUR METHODOLOGIES
FAC-008-1	R1.3.	WE ARE REVIEWING AND UPDATING OUR METHODOLOGIES
FAC-008-1	R1.3.1.	WE ARE REVIEWING AND UPDATING OUR METHODOLOGIES
FAC-008-1	R1.3.2.	WE ARE REVIEWING AND UPDATING OUR METHODOLOGIES
FAC-008-1	R1.3.3.	WE ARE REVIEWING AND UPDATING OUR METHODOLOGIES
FAC-008-1	R1.3.4.	WE ARE REVIEWING AND UPDATING OUR METHODOLOGIES
FAC-008-1	R1.3.5.	WE ARE REVIEWING AND UPDATING OUR METHODOLOGIES
FAC-008-1	R2.	WE ARE REVIEWING AND UPDATING OUR METHODOLOGIES
FAC-008-1	R3.	WE ARE REVIEWING AND UPDATING OUR METHODOLOGIES
FAC-009-1	R1.	WE HAVE RATINGS AND ARE VERIFYING CONSISTENCY WITH METHODOLOGY
FAC-009-1	R2.	WE HAVE RATINGS AND ARE VERIFYING CONSISTENCY WITH METHODOLOGY
IRO-004-1	R4.	COMPLIANT
PRC-005-1	R1.1.	WE HAVE INTERVALS BUT NOT THEIR BASIS
PRC-005-1	R1.2.	COMPLIANT
PRC-005-1	R2.	TO DATE WE HAVE HAD NO REQUESTS FOR DOCUMENTATION FROM ANY R.R.O.
PRC-005-1	R2.1.	COMPLIANT
PRC-005-1	R2.2.	COMPLIANT

**EXPLANATIONS ATTACHED TO TRE 2007 SELF-CERTIFICATION FOR GENERATOR OWNER US ARMY CORPS SWD**

Standard Number	Requirement Number	EXPLANATIONS FOR NON-COMPLIANCE
PRC-016-0	R1.	N/A
PRC-016-0	R2.	N/A
PRC-016-0	R3.	N/A
PRC-017-0	R1.	N/A
PRC-017-0	R1.1.	N/A
PRC-017-0	R1.1.1.	N/A
PRC-017-0	R1.1.2.	N/A
PRC-017-0	R1.1.3.	N/A
PRC-017-0	R1.1.4.	N/A
PRC-017-0	R1.2.	N/A
PRC-017-0	R1.3.	N/A
PRC-017-0	R1.4.	N/A
PRC-017-0	R1.5.	N/A
PRC-017-0	R1.6.	N/A
PRC-017-0	R2.	N/A

## **Attachment b**

# **COE-Tulsa District Response to the Notice of Alleged Violation and Proposed Penalty and Sanction, dated November 20, 2007**



Reply to  
Attention of:

**DEPARTMENT OF THE ARMY**  
**SOUTHWESTERN DIVISION, CORPS OF ENGINEERS**  
**1100 COMMERCE STREET**  
**DALLAS, TEXAS 75242-0216**  
November 20, 2007

Office of Counsel

Ms. Rashida Williams  
ERCOT  
By email to [treselfcert@ercot.com](mailto:treselfcert@ercot.com)

Dear Ms. Williams:

This letter is in response to the November 14, 2007, "Notice of Alleged Violation and Proposed Penalty or Sanction" we received from Mr. Lane Robinson in your office.

In light of the letter dated May 11, 2007, from Mr. John Paul Woodley, Jr., Assistant Secretary of the Army (Civil Works), to Mr. Joseph T. Kelliher, Chairman, Federal Energy Regulatory Commission, the compliance Self-Reporting data was provided on a voluntary basis and this submission does not constitute entity registration or a recognition of jurisdiction by the United States Army Corps of Engineers. I direct you to the letter from my office dated October 3, 2007, which sets forth that the U.S. Army Corps of Engineers (USACE) "is not in a position to register with our respective reliability organizations." While USACE could submit a preliminary mitigation plan, USACE is currently in the process of developing a national policy to address submitting mitigation plans. To avoid substantial changes to preliminary mitigation plans as a result of the forthcoming national policy, a mitigation plan for this non-compliance will not be submitted until this national policy has been completed.

In the spirit of our dedication to voluntarily conform to the reliability standards contained in the 2005 Energy Policy Act, the Southwestern Division of the USACE plans to request the funds needed to comply with the Act in its annual budgets. To the extent our current appropriations allow us to comply with the Act, we will do so. However, we are mindful of the need to act in accordance with the Anti-Deficiency Act, which provides for civil and criminal penalties for those who expend funds of the United States when those funds have not been duly appropriated and authorized by the Congress.

If you have any questions, please do not hesitate to call Ms. Dava-Kay Kaitala at (469) 487-7015.

Sincerely,

A handwritten signature in black ink that reads "Morris A. Tanner, Jr." in a cursive style.

Morris A. Tanner, Jr.  
Division Counsel

**Attachment c**

**Mitigation Plan Submittal Form for MIT-07-0062,  
dated January 30, 2008**

NERC Violation # TRE200700027

1. The Point of contact for the Denison Project Tulsa District Corps of Engineers is Sherman Jones
2. The alleged violation is of Standard PRC-005-1 requirement R1.1
3. The cause of the alleged violation is the entity may not have basis for the testing intervals for the protection systems.
4. The plan is to identify and ensure that each protective system at the facility has a basis for the testing interval. The completed basis for the testing interval will be placed on file and will be updated as required as new equipment is installed to ensure its completeness and accuracy.
5. The Corps of Engineers, Tulsa District, will maintain on file the basis for the testing interval for the facility's testing intervals for each protective system to ensure data is readily accessible and current to prevent future alleged violations of compliance standard requirements
6. The impact to the bulk electric system is low. The powerplant routinely tests and maintains the protective systems at regular intervals which we believe meets or exceeds the manufacturer's recommendations, however, it is unclear whether there is adequate documentation to serve as a basis for this testing interval. Since the equipment is adequately tested and maintained, the possible lack of documentation for the basis of the interval of testing has little to no impact on the Bulk Electric Power System as it does not effect the existing operation.
7. It is anticipated that the Corps of Engineers, Tulsa District, will be in full compliance by August 2008
8. The anticipated timetable for ensuring full compliance is as follows:

Mile stones	Tasks
Jan- March 2008	Gather data for the protective systems at the facility to determine manufacturers' recommendations for each device to ensure it is documented and the ratings are complete
April – May 2008	Determine what equipment if any does not have a manufacturers recommendation and if so determine a suitable recommendation
June – July	Complete and assemble for basis for testing interval of protective system and assemble in file
Aug 2008	The Tulsa District is in full compliance of this standard

9. This information is being provided on a voluntary basis and this submission does not constitute entity registration by the United States Army Corps of Engineers. Further, this is a draft, written before issuance of national guidance by our agency. Depending on the contents of that guidance, which is expected within 60-90 days, it is possible this mitigation plan will change significantly.

Respectfully submitted,

A handwritten signature in black ink, reading "Dava-Kay Kaitala". The signature is written in a cursive, flowing style.

Dava-Kay Kaitala  
Deputy Division Counsel

## **Attachment d**

# **COE-Tulsa District Second Response to the Notice of Alleged Violation and Proposed Penalty and Sanction, dated January 25, 2008**



**DEPARTMENT OF THE ARMY**  
SOUTHWESTERN DIVISION, CORPS OF ENGINEERS  
1100 COMMERCE STREET  
DALLAS, TEXAS 75242-0216  
January 25, 2008

Reply to  
Attention of:

Office of Counsel

Ms. Rashida Williams  
ERCOT  
By email to [treselfcert@ercot.com](mailto:treselfcert@ercot.com)

Dear Ms. Williams:

This letter is in response to the January 17, 2008, "Notice of Alleged Violation and Proposed Penalty or Sanction" we received from Mr. Lane Robinson in your office.

In reviewing the correspondence between Mr. John Paul Woodley, Jr., Assistant Secretary of the Army (Civil Works), and Mr. Joseph T. Kelliher, Chairman, Federal Energy Regulatory Commission, it is clear that our agencies fundamentally disagree in our interpretations of whether the 2005 Energy Policy Act authorizes ERCOT to impose mandatory standards on a federal agency and whether it may assess penalties for failure to adhere to those standards.

Despite this fundamental disagreement, as we have stated in our earlier correspondence, we understand the need to improve system reliability which led Congress to pass the legislation in question. Therefore, we intend to make all reasonable efforts to voluntarily comply with your reliability standards while remaining within the funding level provided by the Congress.

At this time, the Southwestern Division (SWD) is awaiting national policy guidance regarding the submission of compliance plans. Until we receive that guidance, we are not in a position to submit such a plan. We anticipate that the national guidance should be finalized in late March or early April of this year.

While we are awaiting receipt of this national policy guidance, we are actively working on a draft regional compliance plan. We project that we will be able to provide a final regional compliance plan by October of this year.

We look forward to a continuing cooperative effort with you in this important national effort improve system reliability.

The SWD initial point of contact for hydropower matters is Mr. Sherman Jones. He may be reached at (469) 487-7043 or by email at [Sherman.R.Jones@usace.army.mil](mailto:Sherman.R.Jones@usace.army.mil).

Sincerely,

A handwritten signature in black ink, appearing to read "Morris A. Tanner, Jr.", with a stylized flourish at the end.

Morris A. Tanner, Jr.  
Division Counsel

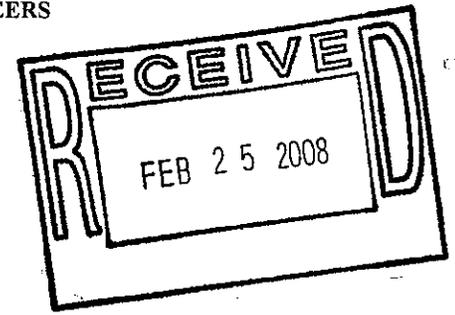
## **Attachment e**

# **COE-Tulsa District Response to the Notice of Confirmed Violation and Proposed Penalty and Sanction, dated February 22, 2008**



Reply to  
Attention of:

**DEPARTMENT OF THE ARMY**  
SOUTHWESTERN DIVISION, CORPS OF ENGINEERS  
1100 COMMERCE STREET  
DALLAS, TEXAS 75242-0216  
February 22, 2008



Office of Counsel

Mr. David Hilt  
Mr. Tim Kucey  
North American Electric Reliability Corporation  
116-390 Village Boulevard  
Princeton, NJ 08540

Dear Messrs. Hilt and Kucey:

This letter is in response to the February 20, 2008, "Notice of Confirmed Violation and Proposed Penalty or Sanction" this agency received from Mr. Lane Robinson in the Texas Regional Entity ("TRE").

In the letter at issue, TRE states:

Texas RE is issuing this Notice of Confirmed Violation and Proposed Penalty or Sanction, because U.S. Army Corps of Engineers does not dispute the Alleged Violation and the proposed penalty or sanction set forth in the previously issued Notice of Alleged Violation and Proposed Penalty or Sanction, or U.S. Army Corps of Engineers did not respond to the previously issued Notice of Alleged Violation and Proposed Penalty or Sanction within thirty (30) days of its receipt, or a settlement has been reached with U.S. Army Corps of Engineers, or a decision has been entered finding a violation and all appeals have been concluded.

These statements are false. The U.S. Army Corps of Engineers ("Corps") does dispute the alleged violations because the 2005 Energy Policy Act ("the Act") does not apply to the Corps. Further, the Corps did respond to the Notice of Alleged violation and Proposed Penalty within 30 days of receipt, and reiterated our belief that the Act is inapplicable to the Corps. Further, within 30 days we provided a mitigation plan, showing how we would voluntarily comply with the Act to the extent allowed by our funding. Further, we have not entered into any sort of settlement with the TRE, and as far as the Corps knows, no decision has been entered finding a violation.

In reviewing the correspondence between Mr. John Paul Woodley, Jr., Assistant Secretary of the Army (Civil Works), and Mr. Joseph T. Kelliher, Chairman, Federal Energy Regulatory Commission, it is clear that our agencies fundamentally disagree in our interpretations of whether the Act authorizes any regional entity to impose mandatory standards on the Corps and whether it may assess penalties for failure to adhere to those standards. The Act does not contain a clear, unequivocally expressed waiver of sovereign immunity, which is necessary for any entity to exercise this kind of jurisdiction over a federal agency.

Despite this fundamental disagreement, as we have stated in our earlier correspondence, we understand the need to improve system reliability which led Congress to pass the legislation in question. Therefore, we intend to make all reasonable efforts to voluntarily comply with your reliability standards while remaining within the funding level provided by the Congress. In our most recent budget, we have requested funds that will allow us to begin bringing our facilities into compliance with the standards at issue. Should these funds be provided by Congress, we plan to continue our voluntary compliance with the standards to the extent allowed by those funds.

We look forward to a continuing cooperative effort with you in this important national effort improve system reliability.

Respectfully submitted,

A handwritten signature in black ink, reading "Morris A. Tanner, Jr." in a cursive script.

Morris A. Tanner, Jr.  
Division Counsel

## **Attachment f**

### **Certification of Completion of Mitigation Plan from COE – Tulsa District, dated February 23, 2009**



Reply to  
Attention of:

**DEPARTMENT OF THE ARMY**  
**SOUTHWESTERN DIVISION, CORPS OF ENGINEERS**  
**1100 COMMERCE STREET**  
**DALLAS, TEXAS 75242-0216**  
February 23, 2009

Office of Counsel

SUBJECT: Close out of mitigation plan for TRE200700027

Ms. Rashida Caraway  
ERCOT  
By email to [rashida.caraway@texasre.org](mailto:rashida.caraway@texasre.org)

Dear Ms. Caraway:

On June 5, 2008, the Tulsa District Corps of Engineers (USACE-TULSA) completed the requirements of the mitigation plan for NERC violation # TRE200700027 (standard PRC 005-1 requirement 1.1). As of this date, this mitigation plan is considered closed. USACE-TULSA has developed a basis for the testing intervals for the protective systems and has also developed a process to schedule and track the performance of these tests. Enclosed are examples of the schedule and tracking for the protective relays and the battery system.

If you require further information, please contact either Mr. Rod Shank at (918) 669-7387 or Mr. Sherman Jones at (469)-487-7043.

Sincerely,

A handwritten signature in cursive script that reads "Morris A. Tanner, Jr.".

Morris A. Tanner, Jr.  
Division Counsel

Enclosures

DEN

Relay ID	Serial Number	MFG	TYPE	Testing Interval	Next Scheduled test date	Last date tested	Historical test dates			
							Test Date	Test Date	Test Date	Test Date
MF-A 1	1026	Beckwith	M-3430	5 YEAR	Dec-11	12/20/2006	12/20/2006			
MF-B 1	2511	Beckwith	M-3430	5 YEAR	Dec-11	12/21/2006	12/21/2006			
46E 1	DEN-46E 1	ABB	46D	5 YEAR	Jan-12	1/29/2007	1/29/2007			
51E 1	DEN-51E 1	ABB	51Y	5 YEAR	Jan-12	1/29/2007	1/29/2007			
64F 1	DEN-64F 1	ABB	64F	5 YEAR	Jan-12	1/29/2007	1/29/2007			
59E 1	DEN-59E 1	XDU CR	59F	5 YEAR	Jan-12	1/29/2007	1/29/2007			
MF-A 2	1288	Beckwith	M-3430	5 YEAR	Dec-11	12/18/2006	12/18/2006			
MF-B 2	1004	Beckwith	M-3430	5 YEAR	Dec-11	12/19/2006	12/19/2006			
46E 2	DEN-46E 2	ABB	46D	5 YEAR	Jan-12	1/29/2007	1/29/2007			
51E 2	DEN-51E 2	ABB	51Y	5 YEAR	Jan-12	1/29/2007	1/29/2007			
64F 2	DEN-64F 2	ABB	64F	5 YEAR	Jan-12	1/29/2007	1/29/2007			
59E 2	DEN-59E 2	XDU CR	59F	5 YEAR	Jan-12	1/29/2007	1/29/2007			
25 (SYNC)	1579	BECKWITH	M0188	5 YEAR	Sep-13	9/4/2008	9/4/2008			
87T1 A	DEN-87T1-A	ABB	HU-1	1YEAR	Sep-09	9/4/2008	9/4/2008			
87T1 B	DEN-87T1-B	ABB	HU-1	1YEAR	Sep-09	9/4/2008	9/4/2008			
87T1 C	DEN-87T1-C	ABB	HU-1	1YEAR	Sep-09	9/4/2008	9/4/2008			
51TN1	DEN-51TN-1	ABB	CO-8	1YEAR	Sep-09	9/4/2008	9/4/2008			
27T1	DEN-27T-1	ABB	CV-27	1YEAR	Sep-09	9/4/2008	9/4/2008			
87T2 A	DEN-87T2-A	ABB	HU-1	1YEAR	Sep-09	9/4/2008	9/4/2008			
87T2 B	DEN-87T2-B	ABB	HU-1	1YEAR	Sep-09	9/4/2008	9/4/2008			
87T2 C	DEN-87T2-C	ABB	HU-1	1YEAR	Sep-09	9/4/2008	9/4/2008			
51TN2	DEN-51TN-2	ABB	CO-8	1YEAR	Sep-09	9/4/2008	9/4/2008			
27T2	DEN-27T-2	ABB	CV-27	1YEAR	Sep-09	9/4/2008	9/4/2008			
87S1 A	34385R	ABB	CA	1YEAR	Aug-09	8/28/2008	8/28/2008			
87S1 B	34386R	ABB	CA	1YEAR	Aug-09	8/28/2008	8/28/2008			
87S1 C	34388R	ABB	CA	1YEAR	Aug-09	8/28/2008	8/28/2008			
87S2 A	34389R	ABB	CA	1YEAR	Aug-09	8/28/2008	8/28/2008			
87S2 B	34390R	ABB	CA	1YEAR	Aug-09	8/28/2008	8/28/2008			
87S2 C	34387R	ABB	CA	1YEAR	Aug-09	8/28/2008	8/28/2008			
51ST	805917H	GEC ALSTHOM	KCGG140	5 YEAR	Aug-13	8/28/2008	8/28/2008			
L1 MF-A	96269045	Schweitzer	SEL-221G	5 YEAR	Aug-13	8/25/2008	8/25/2008			



TULSA DISTRICT  
DENISON POWERHOUSE  
MAINTENANCE REPORT

Maint Item	Name	Description	Location	Interval	Last Done	Type	Date Completed
3201-01	STATION BATTERY	CHECK SPECIFIC GRAVITY AND VOLTAGE		1	2008/12/10	EL	

[1] Records Found Matching Search Criteria

## **Attachment g**

### **Verification of Completion of Mitigation Plan from Texas RE, dated May 8, 2009**

May 8, 2009

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

Registered Entity: U.S. Army Corps of Engineers - Tulsa District (USACE – Tulsa District)  
Violation Number: TRE200700027

It was discovered during a self-certification, dated October 3, 2007 that USACE – Tulsa District did not have a basis for testing intervals for its protection system as required by PRC-005, R1.1.

USACE – Tulsa District identified in their mitigation plan that a basis for the testing intervals, for the protective system, would be determined.

USACE – Tulsa District provided information, to Texas RE that the basis for test intervals is the manufacturer's recommendation. USACE – Tulsa District also provided sample equipment listing which included "Next Scheduled Test Date", "Last Date Tested" and "Test Date."

Based on evidence presented by USACE – Tulsa District and reviewed by Texas RE, this letter confirms the above mentioned mitigation plan is complete.

**Attachment h**

**Notice of Filing**

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

U.S. Army Corps of Engineers – Tulsa District

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

NOTICE OF FILING  
June 24, 2009

Take notice that on June 24, 2009, the North American Electric Reliability Corporation (NERC) filed a Notice of Penalty regarding U.S. Army Corps of Engineers – Tulsa District 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