



NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

April 28, 2010

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

**Re: NERC Notice of Penalty regarding Florida Keys Electric Cooperative Association, Inc., FERC Docket No. NP10-\_-000**

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Notice of Penalty<sup>1</sup> regarding Florida Keys Electric Cooperative Association, Inc. (FKEC), NERC Registry ID NCR00021,<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>

On January 29, 2009, FKEC self-reported to the Florida Reliability Coordinating Council, Inc. (FRCC) its noncompliance with EOP-004-1 Requirement (R) 3.1 for its failure to submit, within 24 hours, either a copy of the applicable United States Department of Energy (DOE) report or a copy of the NERC Interconnection Reliability Operating Limit and Preliminary Disturbance Report form to FRCC and NERC. This Notice of Penalty is being filed with the Commission because FRCC and FKEC have entered into a Settlement Agreement to resolve all outstanding issues arising from a preliminary and non-public assessment resulting in FRCC's determination and findings of the enforceable alleged violation of EOP-004-1 R3.1. According to the Settlement Agreement, FKEC neither admits nor denies the alleged violation, but has agreed to the proposed penalty of one thousand five hundred dollars (\$1,500) to be assessed to FKEC, in addition to other remedies and actions to mitigate the instant violation and facilitate future

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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 (2010). *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). See 18 C.F.R. § 39.7(c)(2).

<sup>2</sup> Florida Reliability Coordinating Council confirmed that FKEC was included on the NERC Compliance Registry as a Distribution Provider, Load-Serving Entity, Resource Planner, Transmission Operator, Transmission Owner and Transmission Planner on May 29, 2007. As a Transmission Operator and Load-Serving Entity, FKEC is subject to the requirements of NERC Reliability Standard EOP-004-1.

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

compliance under the terms and conditions of the Settlement Agreement. Accordingly, the alleged violation identified as NERC Violation Tracking Identification Number FRCC200900133 is being filed in accordance with the NERC Rules of Procedure and the CMEP.

### Statement of Findings Underlying the Alleged Violation

This Notice of Penalty incorporates the findings and justifications set forth in the Settlement Agreement executed on March 11, 2010 by and between FRCC and FKEC, which is included as Attachment b and the Supplemental Record of Information dated January 18, 2010. 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 (2010), 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 (\$)
FRCC	Florida Keys Electric Cooperative Assn	NOC-185	FRCC200900133	EOP-004-1	3.1	Lower	1,500

#### EOP-004-1

The purpose of Reliability Standard EOP-004-1 is to study and understand disturbances or unusual occurrences that jeopardize the operation of the bulk power system (BPS), or result in system equipment damage or customer interruptions, to minimize the likelihood of similar events occurring in the future.

EOP-004-1 R3 requires each Transmission Operator or Load Serving Entity, such as FKEC, experiencing a reportable incident to provide a preliminary written report to its Regional Entity and NERC. Specifically, EOP-004-1 R3.1 requires the affected Transmission Operator or Load Serving Entity to 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. EOP-004-1 R3.1 has a "Lower" Violation Risk Factor (VRF).

FKEC is engaged in the transmission and distribution of electricity in the Florida Keys. FKEC serves over 31,000 residential and commercial customers. FKEC has a peak load of approximately 144 MW which represents no more than three-tenths of a percent of the FRCC Regional peak load. According to the Settlement Agreement, on January 8, 2009 at 2344 hours, FKEC experienced a complete system shutdown which is believed to have been caused by a bird strike on one of its two 138 kV transmission lines. The possible bird strike resulted in the

misoperation of a 138 kV breaker. This initiated a breaker failure relay protection scheme, resulting in opening FKEC's other 138 kV line and ultimately in a complete shutdown of FKEC's system and resulted in the loss of power to all of FKEC's 31,000 customers. FKEC immediately notified its Reliability Coordinator (RC)<sup>4</sup> of the event and began restoration procedures. FKEC restored its system on January 9, 2009 at 0011, so the outage occurred for approximately 30 minutes.

The applicable DOE report, a copy of which was due to FRCC and NERC by January 9, 2009 2344, was not submitted to the DOE until January 13, 2009. Additionally, FKEC, on January 13, 2009, submitted a copy of the appropriate DOE report to FRCC and to its RC. On January 19, 2009, FKEC submitted a copy of the DOE report to the DOE and the NERC Electricity Sector Information Sharing and Analysis Center (ESISAC).<sup>5</sup>

FRCC determined that FKEC had an alleged violation of EOP-004-1 R3.1 because FKEC failed to send a copy of the pertinent DOE report to FRCC and NERC within the required 24-hour timeframe. FRCC determined the duration of the alleged violation to be from January 9, 2009, the date the required report was due, through January 19, 2009, when FKEC submitted the required report. As discussed below, FKEC completed its Mitigation Plan on January 29, 2009.

The purpose of Reliability Standard EOP-004-1 is to study and understand disturbances or unusual occurrences that jeopardize the operation of the BPS, or result in system equipment damage or customer interruptions, to minimize the likelihood of similar events occurring in the future. FRCC determined that the violation of EOP-004-1 did not pose a serious or substantial risk to the reliability of the BPS because a study from a report issued within 24 hours would not have resulted in FRCC or NERC taking any immediate actions. Additionally, the combination of the unusual coincidence of events that caused the outage and the relatively small size of FKEC is unique. Furthermore, FKEC's system operators immediately notified its RC of the shut down event and promptly implemented restoration procedures to restore service to the line.

#### Regional Entity's Basis for Penalty

According to the Settlement Agreement, FRCC has assessed a penalty of one thousand five hundred dollars (\$1,500) for the referenced alleged violation. In reaching this determination, FRCC considered the following factors: (1) FKEC self-reported the violation; (2) this was FKEC's first occurrence of non-compliance with EOP-004-1; (3) FKEC was cooperative throughout FRCC's compliance enforcement process; (4) there was no evidence of any attempt to conceal a violation nor evidence of intent to do so; and (5) the alleged violation did not pose a serious or substantial risk to the bulk power system, as discussed above.

After consideration of the above factors, FRCC determined that, in this instance, the penalty amount of one thousand five hundred dollars (\$1,500) is appropriate and bears a reasonable relation to the seriousness and duration of the alleged violation.

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<sup>4</sup> FRCC's member services division serves as the Reliability Coordinator.

<sup>5</sup> The self-report incorrectly states that FKEC filed the OE-417 report on January 14, 2009.

### **Status of Mitigation Plan<sup>6</sup>**

FKEC's completed Mitigation Plan to address its alleged violation of EOP-004-1 R3.1 was submitted to FRCC on January 31, 2009<sup>7</sup> stating that it had been completed on January 29, 2009. The Mitigation Plan was accepted by FRCC on February 28, 2009 and approved by NERC on March 27, 2009. The Mitigation Plan for this alleged violation is designated as MIT-09-1486 and was submitted as non-public information to FERC on March 31, 2009 in accordance with FERC orders.

FKEC's Mitigation Plan required FKEC to (1) provide its system operators with mandatory remedial training; and (2) schedule annual refresher training to be conducted by the Supervisor of System Operators. FKEC submitted copies of the following reports to show that the instant alleged violation was mitigated, in addition to other evidence as discussed below: (1) *FKEC-001 - NERC Interconnection Reliability Operating Limit and Preliminary Disturbance Report* submitted on January 13, 2009; (2) *FKEC-002 EIA-417* submitted on January 13, 2009; and (3) *FKEC-003 OE-417* submitted on January 19, 2009.

FKEC certified in its Mitigation Plan submitted on January 31, 2009 that the above Mitigation Plan requirements were completed on January 29, 2009. As evidence of completion of its Mitigation Plan, FKEC submitted a course syllabus and training records documents showing that training was conducted on January 29, 2009.

On March 28, 2009, after reviewing FKEC's submitted evidence, FRCC verified that FKEC's Mitigation Plan was completed on January 29, 2009 and notified FKEC in a letter dated April 15, 2009 that it was in compliance with EOP-004-1 R3.1.

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

#### **Basis for Determination**

Taking into consideration the Commission's direction in Order No. 693, the NERC Sanction Guidelines and the Commission's July 3, 2008 Guidance Order,<sup>9</sup> the NERC BOTCC reviewed the Settlement Agreement and supporting documentation on March 10, 2010. The NERC BOTCC approved the Settlement Agreement, including FRCC's imposition of a financial penalty, assessing a penalty of one thousand five hundred dollars (\$1,500) against FKEC and other actions to facilitate future 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 violation at issue.

In reaching this determination, the NERC BOTCC considered the following factors:

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<sup>6</sup> See 18 C.F.R § 39.7(d)(7).

<sup>7</sup> The Settlement Agreement incorrectly states that the Mitigation Plan was submitted on February 2, 2009.

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

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

- (1) FKEC self-reported the alleged violation;
- (2) the alleged violation constituted FKEC's first occurrence of violation of NERC Reliability Standard EOP-004-1;
- (3) FRCC reported FKEC was cooperative throughout the enforcement process;
- (4) there was no evidence of any attempt to conceal a violation nor evidence of intent to do so; and
- (5) FRCC determined that the alleged violations did not pose a serious or substantial risk to the BPS as discussed above.

For the foregoing reasons, the NERC BOTCC approves the Settlement Agreement and believes that the proposed penalty of one thousand five hundred dollars (\$1,500) is appropriate for the alleged violation and circumstances in question, and is consistent with NERC's goal to promote and ensure reliability of the BPS.

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) FKEC's Self-Report submitted January 29, 2009, included as Attachment a;
- b) Settlement Agreement by and between FRCC and FKEC executed March 11, 2010, included as Attachment b;
- c) FKEC's Mitigation Plan designated as MIT-09-1486 and Certification of Completion contained therein, submitted January 31, 2009, included as Attachment c; and
- d) FRCC's Verification of Completion of the Mitigation Plan, dated April 15, 2009, included as Attachment d.

#### **A Form of Notice Suitable for Publication<sup>10</sup>**

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

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<sup>10</sup> See 18 C.F.R § 39.7(d)(6).

## Notices and Communications

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

<p>Gerald W. Cauley* President and Chief Executive Officer David N. Cook* Vice President and General Counsel North American Electric Reliability Corporation 116-390 Village Boulevard Princeton, N.J. 08540-5721 (609) 452-8060 (609) 452-9550 – facsimile gerry.cauley@nerc.net david.cook@nerc.net</p> <p>Richard Gilbert* Manager of Compliance Enforcement Florida Reliability Coordinating Council, Inc. 3000 Bayport Dr., Suite 690 Tampa, Florida 33607-8402 (813) 207-7991 (813) 289-5648 – facsimile rgilbert@frcc.com</p> <p>Dennis Minton* Director of Power Supply and Delivery Florida Keys Electric Cooperative Assn. 91605 Overseas Hwy. Tavernier, FL 33070 (305) 852-2431 (305) 852-4794 – facsimile dennis.minton@fkec.com</p> <p>*Persons to be included on the Commission's service list are indicated with an asterisk. NERC requests waiver of the Commission's rules and regulations to permit the inclusion of more than two people on the service list.</p>	<p>Rebecca J. Michael* Assistant General Counsel Holly A. Hawkins* Attorney North American Electric Reliability Corporation 1120 G Street, N.W. Suite 990 Washington, D.C. 20005-3801 (202) 393-3998 (202) 393-3955 – facsimile rebecca.michael@nerc.net holly.hawkins@nerc.net</p> <p>Sarah Rogers* President and Chief Executive officer Florida Reliability Coordinating Council, Inc. 1408 N. Westshore Blvd., Suite 1002 Tampa, Florida 33607-4512 (813) 289-5644 (813) 289-5646 – facsimile srogers@frcc.com</p> <p>Linda Campbell* VP and Executive Director Standards &amp; Compliance Florida Reliability Coordinating Council, Inc. 1408 N. Westshore Blvd., Suite 1002 Tampa, Florida 33607-4512 (813) 289-5644 (813) 289-5646 – facsimile lcampbell@frcc.com</p> <p>Barry Pagel* Director of Compliance Florida Reliability Coordinating Council, Inc. 3000 Bayport Dr., Suite 690 Tampa, Florida 33607-8402 (813) 207-7968 (813) 289-5648 – facsimile bpagel@frcc.com</p>
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## Conclusion

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

Respectfully submitted,

/s/ Rebecca J. Michael

Rebecca J. Michael  
Assistant General Counsel  
Holly A. Hawkins  
Attorney  
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Princeton, N.J. 08540-5721  
(609) 452-8060  
(609) 452-9550 – facsimile  
gerry.cauley@nerc.net  
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cc: Florida Keys Electric Cooperative Association, Inc.  
Florida Reliability Coordinating Council, Inc.

Attachments

## **Attachment a**

**FKEC's Self-Report submitted January 29, 2009**



## FRCC Compliance Self Reporting Form

Registered Entity Florida Keys Electric Cooperative Assoc., Inc.

Date of Violation: Month Jan Day 09 Year 2009

Time of Violation 00:43

(As appropriate, based upon the time frame associated with the reliability standard)

For EACH violation, please provide the following:

1. The Reliability Standard and requirement violated. - NERC Standard EOP-004-1 R3.1
2. Violation Severity Level. - SEVERE
3. The specifics of the violation and the reliability impact of the violation to the bulk power system. – FKEC failed to file required OE-417 until Jan 14, 2009 @ 0732 (time greater than 48 hour reporting period). FKEC does not believe a negative impact existed, or exists, to the BES, as it is a radial 138 kV system emanating from one source serving only load. EO-417 & NERC Preliminary Disturbance Report sent to F Prieto (FPL) & E Senkowitz (FRCC) on 01/13/09. EO-417 sent to [esisac@nerc.com](mailto:esisac@nerc.com) on 01/14/09.
4. Company contact persons name, title, and contact number(s).  
Dennis Minton, Director of Power Supply and Delivery, 305.852.2431 ext 233
5. Describe any confidentiality issues. – None.
6. Actions taken or to be taken (include timetable) to ensure violation is corrected. Attach completed Mitigation Plan if appropriate. – FKEC has given mandatory remedial training to its Operators on the requirements of this NERC Standard. Proper procedure shall be followed, should a similar event occur.

Additional Comments:  Comments attached.

Submitted by: Dennis Minton

Title: Dir of Power Supply and Delivery

Please send your completed form to [compliance@frcc.com](mailto:compliance@frcc.com)

## **Attachment b**

# **Settlement Agreement by and between FRCC and FKEC executed March 11, 2010**



FLORIDA RELIABILITY COORDINATING COUNCIL, INC.  
1408 N. WESTSHORE BLVD., SUITE 1002  
TAMPA, FLORIDA 33607-4512  
PHONE 813.289.5644 • FAX 813.289.5646  
WWW.FRCC.COM

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**SETTLEMENT AGREEMENT  
OF  
FLORIDA RELIABILITY COORDINATING COUNCIL, INC.  
AND  
FLORIDA KEYS ELECTRIC COOPERATIVE ASSOCIATION, INC.**

**NERC Registry ID #: NCR00021**

**I. Introduction**

1. Florida Reliability Coordinating Council, Inc. ("FRCC") and Florida Keys Electric Cooperative Association, Inc. ("FKEC") enter into this Settlement Agreement ("Agreement") to resolve all outstanding issues arising from a preliminary and non-public assessment resulting in FRCC determination and findings, pursuant to the North American Electric Reliability Corporation ("NERC") Rules of Procedure, of a violation by FKEC of the following NERC Reliability Standard and Requirement:

- i. EOP-004-1, Requirement 3.1 [NERC Tracking #: FRCC200900133]

2. Pursuant to the Settlement Agreement, FKEC neither admits nor denies the alleged violation of EOP-004-1, R3.1, but FKEC has agreed to the proposed penalty of one thousand five hundred dollars (\$1,500) to be assessed to FKEC, in addition to other remedies and mitigation actions to mitigate the instant alleged violation and ensure future compliance under the terms and conditions of the Settlement Agreement.

**II. Stipulation**

3. The facts stipulated herein are stipulated solely for the purpose of resolving between FKEC and FRCC the matters discussed herein and do not constitute stipulations or admissions for any other purpose, including in any administrative proceeding. FKEC and FRCC hereby stipulate and agree to the following:

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## A. Background

4. FKEC is engaged in the transmission and distribution of electricity in the Florida Keys. Its principal offices are located in Tavernier, Florida. FKEC serves over 31,000 residential and commercial customers.
5. FKEC has a peak load of over 144 MW which represents approximately three-tenths of a percent of the FRCC regional peak load. FKEC owns and operates approximately 90 miles of bulk power system (BPS) 138 kV transmission lines in Florida which represent approximately eight-tenths of a percent of the FRCC regional transmission lines.
6. FRCC staff confirmed that FKEC is registered on the NERC Compliance Registry as a Transmission Operator (“TOP”) and a Load Serving Entity (“LSE”), among other functions in the FRCC region with the NERC Registry Identification Number of NCR00021, and is, therefore, subject to compliance with EOP-004-1, R3.1.

## B. Alleged Violation

7. The related Requirements of the Reliability Standard read as follows:

EOP-004-1, “Disturbance Reporting”

R3. A Reliability Coordinator, Balancing Authority, Transmission Operator, Generator Operator or Load Serving Entity experiencing a reportable incident shall provide a preliminary written report to its Regional Reliability Organization and NERC.

R3.1. 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 Department of Energy (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.

EOP-004-1, R3.1 has a Violation Risk Factor (VRF) of Lower.

8. The duration of the FKEC EOP-004-1, R3.1 violation was from January 9<sup>th</sup>, 2009 to January 19<sup>th</sup>, 2009.

9. EOP-004-1, R3.1 (FRCC200900133): On January 29<sup>th</sup>, 2009, FKEC submitted to FRCC a Self-Report in which FKEC identified Non-Compliance with Requirement 3.1 of Reliability Standard EOP-004-1.

FKEC self reported that through an internal investigation, it was discovered that as required by Standard and Requirement EOP-004-1, R3.1, FKEC had failed to submit within 24 hours an incident reporting form to its Regional Reliability Organization and NERC , which described an event that had occurred on its 138 kV transmission system.

FKEC stated that it experienced a complete system shut-down on January 8<sup>th</sup>, 2009 at 2344 hours. The Standard required the report to be submitted within 24 hours of the occurrence, or, in this case, by 2344 hours on January 9<sup>th</sup>, 2009. FKEC initiated an internal investigation following the event in which they determined they had failed to submit to its Regional Reliability Organization and NERC an incident reporting form within the required 24 hours from occurrence timeframe.

On January 13<sup>th</sup>, 2009, FKEC submitted the required form to DOE, FRCC and the Regional Reliability Coordinator (RC). On January 19<sup>th</sup>, 2009, FKEC submitted the required form to DOE and the NERC Electricity Sector Information Sharing and Analysis Center (ESISAC).

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

#### **Statement of FRCC**

10. Regarding the violation of EOP-004-1, R3.1 (FRCC200900133):
  - i. FRCC Compliance Staff found that it agreed with FKEC's Self-Report in that FKEC failed to send the required report to its Regional Reliability Organization and NERC within the required 24-hour timeframe. FRCC Compliance Staff issued an Initial Notice of Alleged Violation to FKEC on January 30th, 2009. FKEC then requested settlement discussions regarding the violation prior to a Notice of Alleged Violation being issued.
  - ii. *Impact to the Bulk Power System:* The FRCC Enforcement Compliance Staff determined the impact of the violation of R3.1 to be a violation that did not constitute a serious or substantial risk to the bulk power system because FKEC's system operators immediately notified the regional Reliability Coordinator of the shut-down event beginning at 2344 hours, January 8<sup>th</sup>, 2009 and restoration procedures were promptly implemented with service restoration at 0011 hours on January 9<sup>th</sup>, 2009.

According to FKEC, the shut-down was believed to be caused by a bird strike into one of FKEC's 138kV transmission lines which resulted in the misoperation of a 138kV breaker. This initiated a breaker failure relay protection scheme, resulting in opening FKEC's other 138kV line and creating the system shutdown. FKEC's service territory is served by these two 138kV lines feeding from the Florida mainland.

On December 11<sup>th</sup>, 2009, FRCC conducted a NERC Reliability Standards Compliance Audit of FKEC. For the audited enforcement period (June 18<sup>th</sup>, 2007 to December 11<sup>th</sup>, 2009) FRCC found FKEC compliant with PRC-004-1<sup>1</sup> and PRC-005-1<sup>2</sup> which includes the January 8<sup>th</sup>, 2009 event. After reviewing the NERC Reliability Standards audit documentation, interviews with FKEC personnel and the FKEC January 2009 FRCC Protection Trip Misoperation Log, FRCC Enforcement Compliance Staff determined that other Standards or Requirements other than EOP-004-1, R3.1 were not affected by this violation.

11. FRCC has confirmed certain aspects of FKEC's compliance program. As evidenced by an organizational chart provided by FKEC, they have designated the Director of Power Supply and Delivery within its organization as the compliance official. The Director reports directly to the Chief Operating Officer and has direct access to the Chief Executive Officer on a daily basis.

However, upon review of Compliance Program Audit Worksheet responses from FKEC, FRCC discussed several considerations for compliance program improvements during FKEC's settlement discussions. Considerations included that FKEC should aggressively adopt, foster and maintain an effective corporate culture of compliance and put in place rigorous procedures and processes that provide effective accountability for compliance.

12. FRCC agrees this Agreement is in the best interest of the parties, FRCC and FKEC, and is in the best interest of BPS reliability.

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<sup>1</sup> NERC Reliability Standard PRC-004-1-Analysis and Mitigation of Transmission and Generation Protection System Misoperations

<sup>2</sup> NERC Reliability Standard PRC-005-1- Transmission and Generation Protection System Maintenance and Testing

## STATEMENT OF FLORIDA KEYS ELECTRIC COOPERATIVE ASSOCIATION

13. FKEC neither admits nor denies that the facts set forth and agreed to by the parties for purposes of this Agreement constitute a violation of EOP-004-1, R3.1 (FRCC200900133).
14. FKEC has agreed to enter into this Settlement Agreement with FRCC to avoid extended litigation with respect to the matters described or referred to herein, to avoid uncertainty, and to effectuate a complete and final resolution of the issues set forth herein. FKEC agrees that this Agreement is in the best interest of the parties and in the best interest of maintaining a reliable electric infrastructure.

### IV. MITIGATING ACTIONS, REMEDIES AND SANCTIONS

15. **EOP-004-1, R3.1 (FRCC200900133)**: On January 19<sup>th</sup>, 2009 this violation was mitigated through the completion of the required DOE report submittal by FKEC to its Regional Reliability Organization and NERC. This submittal was reviewed by FRCC Compliance Enforcement Staff and found to be acceptable.

The FKEC submittal documentation reviewed included:

- a) FKEC-001 NERC Interconnection Reliability Operating Limit and Preliminary Disturbance Report. The report was submitted on January 13<sup>th</sup>, 2009.
- b) FKEC-002 EIA-417. The report was submitted on January 13<sup>th</sup>, 2009.
- c) FKEC-003 OE-417. The report was submitted on January 19<sup>th</sup>, 2009.

On February 2<sup>nd</sup>, 2009, FKEC submitted a Mitigation Plan submittal (including a statement of Mitigation Plan completion) committing to providing mandatory remedial training (on EOP-004-1) to all transmission system operators. The Mitigation Plan was accepted by FRCC Compliance Staff on February 28<sup>th</sup>, 2009.

The Mitigation Plan was approved by NERC on March 27<sup>th</sup>, 2009 and was submitted by NERC to the Federal Energy Regulatory Commission (FERC) on March 31<sup>st</sup>, 2009. The Mitigation Plan is designated as MIT-09-1486.

FRCC performed an audit-like review of the Mitigation Plan Completion Form evidence that FKEC submitted in support of its Certification of a Completed Mitigation Plan, in order to verify that all actions specified in FKEC's Mitigation Plan were successfully completed. The review included utilizing NERC's Reliability Standard Audit Worksheet for EOP-004-1 R3.1. On March 28<sup>th</sup>, 2009

FRCC verified the Mitigation Plan was completed. FRCC sent FKEC, on April 15<sup>th</sup>, 2009, a letter indicating the Mitigation Plan was completed.

Documents reviewed included the following evidence provided by FKEC in support of completion of its Mitigation Plan:

- a) FKEC-004 FKEC Course syllabus and training records documents. This documentation provides evidence that FKEC transmission system operators were trained on January 29<sup>th</sup>, 2009 as required by the commitments of the FKEC Mitigation Plan.
16. FRCC considered the following factors in determination of penalty: (1) this was FKEC's first assessed non-compliance with EOP-004-1; (2) FKEC was cooperative throughout FRCC's compliance enforcement process; (3) the alleged violation did not pose a serious or substantial risk to the bulk power system, (4) there was no evidence of any attempt to conceal a violation nor evidence of intent to do so.
  17. For purposes of settling and all disputes arising from FRCC's investigation into the matters discovered by FRCC in the January 29, 2009 Self Report of EOP-004-1, R3.1 (FRCC200900133) by FKEC, FRCC and FKEC agree that, on and after the effective date of this Agreement, as set forth in subsection, below, FKEC shall pay a monetary penalty for the violation of EOP-004-1 R3.1 (FRCC200900133) of **\$1,500** (fifteen hundred dollars). FRCC shall present an invoice to FKEC within twenty days after the Agreement is either approved by FERC or by operation of law, and FRCC shall notify NERC if the payment is not received.
  18. Failure to make a timely penalty payment or to comply with any of the terms and conditions agreed to herein, or any other conditions of this Settlement Agreement, shall be deemed to be either the same alleged violation that initiated this Settlement and/or additional violation(s) and may subject FKEC to new or additional enforcement, penalty or sanction actions in accordance with the NERC Rules of Procedure.
  19. If FKEC does not make the monetary penalty payment above at the times agreed by the parties, interest payable to FRCC will begin to accrue pursuant to FERC'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

20. The signatories to the Agreement agree that they enter into the Agreement voluntarily and that, other than the recitations set forth herein, no tender, offer or



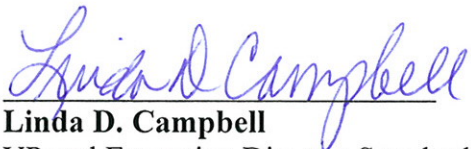
promise of any kind by any member, employee, officer, director, agent or representative of FRCC or FKEC has been made to induce the signatories or any other party to enter into the Agreement.

21. FRCC 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 the FRCC and FKEC 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 FRCC will attempt to negotiate a revised settlement agreement with FKEC 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 FERC for the FERC'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.
22. This Agreement shall become effective upon FERC's approval of the Agreement by order or operation of law as submitted to it or upon FERC's approval of the Agreement by order or operation of law as modified in a manner acceptable to the parties.
23. FKEC agrees that this Agreement, when approved by NERC and FERC, shall represent a final settlement of all matters set forth herein and FKEC waives its right to further hearings and appeal, unless and only to the extent that FKEC contends that any NERC or FERC action on the Agreement contains one or more material modifications to the Agreement.
24. FRCC reserves all rights to initiate enforcement, penalty or sanction actions against FKEC in accordance with the NERC Rules of Procedure in the event that FKEC fails to comply with the mitigation plan and compliance program agreed to in this Agreement. In the event FKEC fails to comply with any of the stipulations, remedies, sanctions or additional terms, as set forth in this Agreement, FRCC will initiate enforcement, penalty, or sanction actions against FKEC to the maximum extent allowed by the NERC Rules of Procedure, up to the maximum statutorily allowed penalty. FKEC shall retain all rights to defend against such enforcement actions, also according to the NERC Rules of Procedure.
25. FKEC consents to the use of FRCC's determinations, findings, and conclusions set forth in this Agreement for the purpose of assessing the factors including the factor of determining the company's history of violations, in accordance with the NERC Sanction Guidelines and applicable FERC orders and policy statements. Such use may be in an enforcement action or compliance proceeding undertaken

by NERC and/or any Regional Entity; provided however, that FKEC does not consent to the use of the specific acts set forth in this Agreement as the sole basis for any other action or proceeding brought by NERC and/or FRCC, nor does FKEC consent to the use of this Agreement by any other party in any other action or proceeding.

26. 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.
27. 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.
28. The Agreement may be signed in counterparts.
29. This Agreement is executed in duplicate, each of which so executed shall be deemed to be an original.

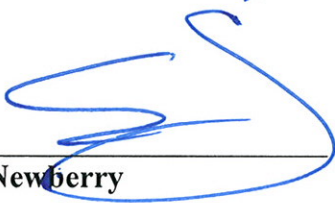
Agreed to and accepted:



**Linda D. Campbell**  
VP and Executive Director Standards &  
Compliance  
Florida Reliability Coordinating Council, Inc.

3/11/10

Date



**Scott Newberry**  
CEO  
Florida Keys Electric Cooperative Association

3/8/10

Date

## **Attachment c**

**FKEC's Mitigation Plan designated as MIT-09-1486 and Certification of Completion contained therein, submitted January 31, 2009**



# Mitigation Plan Submittal Form

Date this Mitigation Plan is being submitted: January 31, 2009

## **Section A: Compliance Notices & Mitigation Plan Requirements**

- A.1 Notices and requirements applicable to Mitigation Plans and this Submittal Form are set forth in "Attachment A - Compliance Notices & Mitigation Plan Requirements" to this form.
- A.2  I have reviewed Attachment A and understand that this Mitigation Plan Submittal Form will not be accepted unless this box is checked.

## **Section B: Registered Entity Information**

B.1 Identify your organization:

Company Name: Florida Keys Electric Cooperative Assoc., Inc.  
Company Address: 91605 Overseas Highway, Tavernier, FL 33070  
NERC Compliance Registry ID: NCR-00021

B.2 Identify the individual in your organization who will be the Entity Contact regarding this Mitigation Plan.

Name: Dennis Minton  
Title: Director of Power Supply And Delivery  
Email: dennis.minton@fkec.com  
Phone: 305.852.2431 ext 233

## **Section C: Identification of Alleged or Confirmed Violation(s) Associated with this Mitigation Plan**

C.1 This Mitigation Plan is associated with the following Alleged or Confirmed violation(s) of the reliability standard listed below.



Applicable Standard, Requirement(s) and dates:

NERC Violation ID #	Reliability Standard	Requirement Number	Violation Risk Factor	Alleged or Confirmed Violation Date <sup>(*)</sup>	Method of Detection (e.g., Audit, Self-report, Investigation)
FRCC200 900133	EOP-004-1	R3.1	Lower	01/09/09	Self-Report

(\*) Note: The Alleged or Confirmed Violation Date shall be expressly specified by Registered Entity, and subject to modification by the FRCC, as: (i) the date the Alleged or Confirmed violation occurred; (ii) the date that the Alleged or Confirmed violation was self-reported; or (iii) the date that the Alleged or Confirmed violation has been deemed to have occurred on by the FRCC. Questions regarding the date to use should be directed to the FRCC contact identified in Section G of this form.

C.2 Identify the cause of the Alleged or Confirmed violation(s) identified above. Additional detailed information may be provided as an attachment:

FKEC expweicened a complete system shut-down on 01/08/09 at 23:44. By Standard, the system operators were to make required notifications by 00:44 on 01/09/09. However, as the operators focused on system restoration, the reporting requirement was overlooked. Violation discovery took place, and was immediately self-reported, while analyzing the event.

C.3 Provide any additional relevant information regarding the Alleged or Confirmed violations associated with this Mitigation Plan. Additional detailed information may be provided as an attachment:

None.

**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 Alleged or Confirmed violations identified above in Part C.1 of this form. Additional detailed information may be provided as an attachment:

FKEC reviewed its internal policy referencing the Standard EOP-004-1. FKEC provided mandatory remedial training to all system operators on 01/29/09, referencing this NERC Standard and FKEC Policy. Refresher training shall be delivered by the Supv of System Operators annually.

**Mitigation Plan Timeline and Milestones**

D.2 Provide the date by which full implementation of the Mitigation Plan will be, or has been, completed with respect to the Alleged or Confirmed violations identified above. State whether the Mitigation Plan has been fully implemented: The system operators received remedial training on this standard on 01/29/09. FKEC believes the mitigation plan has been fully implemented and should another reportable event occur, FKEC shall completely execute all Standard requirements.

D.3 Enter Milestone Activities, with due dates, that your organization is proposing, or has completed, for this Mitigation Plan:

Milestone Activity	Proposed/Actual Completion Date* (shall not be more than 3 months apart)
Remedial Training	01/29/09

(\*) Note: Implementation milestones no more than three (3) months apart are permissible only 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.



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

### **Abatement of Interim BPS Reliability Risk**

- E.1 While your organization is implementing this Mitigation Plan the reliability of the Bulk Power System (BPS) 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 to mitigate this increased risk to the reliability of the BPS. Additional detailed information may be provided as an attachment:

None.

### **Prevention of Future BPS Reliability Risk**

- E.2 Describe how successful completion of this Mitigation Plan will prevent or minimize the probability that your organization incurs further risk or Alleged violations of the same or similar reliability standards requirements in the future. Additional detailed information may be provided as an attachment:

As remedial training has been given, and as annual refresher training is given, FKEC believes future similar violations shall not occur.



**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 this Mitigation Plan for acceptance by the FRCC and approval by NERC, and
- b) If applicable, certifies that this Mitigation Plan was completed on or before the date provided as the 'Date of Completion of the Mitigation Plan' on this form, and
- c) Acknowledges:
  - 1. I am the Director of Power Supply and Delivery of Florida Keys Electric Cooperative Assoc., Inc.
  - 2. I am qualified to sign this Mitigation Plan on behalf of Florida Keys Electric Cooperative Assoc., Inc.
  - 3. I understand Florida Keys Electric Cooperative Assoc., Inc. 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)).
  - 3. I have read and am familiar with the contents of this Mitigation Plan.
  - 4. Florida Keys Electric Cooperative Assoc., Inc. agrees to comply with, this Mitigation Plan, including the timetable completion date, as accepted by the FRCC and approved by NERC.

**Authorized Individual Signature**

  
\_\_\_\_\_

Name (Print): Dennis D. Minton  
Title: Director of Power Supply and Delivery  
Date: 01/31/09





**Section G: Regional Entity Contact**

Please direct any questions regarding completion of this form to:

Madeline Alba, FRCC Compliance Program Administrator  
813-207-7965  
malba@frcc.com



## **Attachment A – Compliance Notices & Mitigation Plan Requirements**

- I. 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.
- II. This submittal form must be used to provide a required Mitigation Plan for review and acceptance by the FRCC and approval by NERC.
- III. This Mitigation Plan is submitted to the FRCC and NERC as confidential information in accordance with Section 1500 of the NERC Rules of Procedure.

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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.



- IV. This Mitigation Plan Submittal Form may be used to address one or more related Alleged or Confirmed violations of one Reliability Standard. A separate mitigation plan is required to address Alleged or Confirmed violations with respect to each additional Reliability Standard, as applicable.
- V. If the Mitigation Plan is accepted by the FRCC and approved by 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.
- VI. The FRCC or NERC may reject Mitigation Plans that they determine to be incomplete or inadequate.
- VII. Remedial action directives also may be issued as necessary to ensure reliability of the BPS.

## **Attachment d**

### **FRCC's Verification of Completion of the Mitigation Plan, dated April 15, 2009**



FLORIDA RELIABILITY COORDINATING COUNCIL, INC.  
1408 N. WESTSHORE BLVD., SUITE 1002  
TAMPA, FLORIDA 33607-4512  
PHONE 813.289.5644 • FAX 813.289.5646  
WWW.FRCC.COM

**VIA E-MAIL**

April 15, 2009

Mr. Dennis Minton  
Director of Power Supply & Delivery  
Florida Keys Electric Cooperative  
91605 Overseas Hwy.  
Tavernier, FL 33070-377

**Re: FKEC – FRCC Mitigation Plan  
Reliability Standard EOP-004-1, R3.1  
NERC Violation #: FRCC200900133  
FRCC Violation #: FKEC\_2009\_01**

Dear Mr. Minton,

The evidence of completion submitted by Florida Keys Electric Cooperative (FKEC), for the above referenced mitigation plan, has been received by the Florida Reliability Coordinating Council, Inc. (FRCC). After review of the evidence, the FRCC has determined that this mitigation plan is complete.

The FRCC will notify the North American Electric Reliability Corporation (NERC) that FKEC has completed its mitigation plan.

If you have any questions, feel free to contact me at 813-207-7968.

Respectfully,

A handwritten signature in black ink that reads 'Barry D. Pagel'. The signature is written in a cursive style with a large, looped 'B' and 'P'.

Barry Pagel  
Manager of Compliance  
bpagel@frc.com

**Attachment e**

**Notice of Filing**

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Florida Keys Electric Cooperative Association, Inc.

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

NOTICE OF FILING  
April 28, 2010

Take notice that on April 28, 2010, the North American Electric Reliability Corporation (NERC) filed a Notice of Penalty regarding Florida Keys Electric Cooperative Association, Inc. in the Florida Reliability Coordinating Council, Inc. 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