



NORTH AMERICAN ELECTRIC
RELIABILITY CORPORATION

January 21, 2009
Ms. Kimberly Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: NERC Notice of Penalty regarding City of West Memphis, AR, FERC Docket No. NP09-_-000

Dear Ms. Bose:

The North American Electric Reliability Corporation (NERC) hereby provides this Notice of Penalty¹ regarding City of West Memphis, AR, NERC Registry ID NCR01204,² 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)).³

As a result of an audit, SERC Reliability Corporation found City of West Memphis, AR in violation of PER-002-0, Requirement (R) 3.1 for failure to have a set of training program objectives referencing the knowledge and competencies needed to apply standards, procedures and requirements to normal, emergency, and restoration conditions. This Notice of Penalty is being filed with the Commission because, based on information from SERC Reliability Corporation, City of West Memphis, AR does not dispute the violation of PER-002-0 R3.1 and the proposed penalty of \$0 to be assessed to the City of West Memphis, AR. Accordingly, the violation identified as NERC Violation Tracking Identification Number SERC200700044 is a Confirmed Violation, as that term is defined in the NERC Rules of Procedure and the CMEP.

Statement of Findings Underlying the Violation

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 March 26, 2008, by SERC Reliability Corporation, and the Supplemental Record Information letters issued by SERC

¹ *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).

² SERC Reliability Corporation confirmed that City of West Memphis, AR was included on the NERC Compliance registry as a Balancing Authority and was subject to the requirements of NERC Reliability Standard PER-002-0.

³ See 18 C.F.R § 39.7(c)(2).

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Reliability Corporation to City of West Memphis, AR on September 22, 2008 and on January 8, 2009. The details of the findings and basis for the penalty are set forth herein. This Notice of Penalty filing contains the basis for approval of this Notice of Penalty by the NERC Board of Trustees Compliance Committee (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 at issue in this Notice of Penalty.

Region	Registered Entity	NOC ID	NERC Violation ID	Reliability Std.	Req. (R)	VRF	Total Penalty (\$)
SERC	City of West Memphis, AR	NOC-40	SERC200700044	PER-002-0	3.1	Medium	0

In summary, PER-002-0 R3.1 requires an entity such as City of West Memphis, AR to provide a training program for all operating personnel meeting the following criterion: a set of training program objectives must be defined, based on NERC and Regional Entity standards, entity operating procedures, and applicable regulatory requirements. These objectives shall reference the knowledge and competencies needed to apply those standards, procedures, and requirements to normal, emergency, and restoration conditions for the Transmission Operator and Balancing Authority operating positions. PER-002-0 R3.1 has a "Medium" Violation Risk Factor (VRF).

SERC Reliability Corporation conducted an audit from October 23-25, 2007 of Constellation Energy Control and Dispatch (CECD), an entity that performs the Balancing Authority service provider function for City of West Memphis, AR, among other Balancing Authorities.⁴ The SERC Reliability Corporation Audit team found that there were lessons and items for training of each personnel classification, but that the training program did not identify or summarize the desired outcomes or behaviors and did not clearly delineate objectives.

SERC Compliance Enforcement Staff (SERC Staff), upon receipt of the report of a possible violation from the Audit team, issued to City of West Memphis, AR a Compliance Assessment Notice advising City of West Memphis of the initiation of a formal assessment to determine its compliance relative to the identified reliability standard requirement and directed City of West Memphis, AR to preserve all relevant records and information. SERC Staff also promptly contacted City of West Memphis, AR to get a full description of the circumstances surrounding the alleged violation. SERC Staff determined that City of West Memphis, AR had a documented training program covering Balancing Authority personnel that have primary responsibility for the real-time operation of the interconnected bulk power system. However, City of West Memphis, AR's training program was deficient in the criterion set forth in Requirement R3.1 of the standard.

⁴ While CECD's January 28, 2008 response states the audit concluded on October 26, 2007, SERC Reliability Corporation has confirmed for NERC that the audit concluded on October 25, 2007.

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The Audit team and SERC Staff reviewed City of West Memphis' Master BA Protocol PER-002-0 document, CECD Protocols PER-002-0 documents, and City of West Memphis' training notebook to determine compliance with the standard. Although the evidence reviewed contained lists of topics for training, City of West Memphis' program failed to contain defined behavioral training objectives to measure and test personnel knowledge and competency. City of West Memphis was assessed an alleged violation for failing to have defined training objectives in its program that are essential for Balancing Authority personnel to apply those standards, procedures, and requirements to normal, emergency, and restoration conditions.

As a result, SERC Reliability Corporation found City of West Memphis, AR in violation of PER-002-0, R3.1 for failure to have a set of training program objectives referencing the knowledge and competencies needed to apply standards, procedures and requirements to normal, emergency and restoration conditions.

The duration of the subject violation was from June 18, 2007, when the standard became enforceable, through the time of the onsite Compliance Audit of October 23-25, 2007, when the violation was discovered, until April 30, 2008, when City of West Memphis, AR completed its Mitigation Plan and restored compliance. The basis for the determination of the duration in this case is that City of West Memphis, AR was required to present to the Audit team evidence of City of West Memphis, AR's compliance with Requirement R3.1 of PER-002-0, not only as of the date of the audit, but also throughout the entire period the standard was enforceable. Because of the absence of such evidence, City of West Memphis, AR was found to be in violation for the entire period until the date City of West Memphis completed its Mitigation Plan. City of West Memphis, AR was under an approved Mitigation Plan beginning January 28, 2008, and was undertaking corrective action during this period.

On December 28, 2007, SERC Reliability Corporation issued to City of West Memphis, AR a Notice of Alleged Violation and Proposed Penalty or Sanction (NAVAPS). On January 28, 2008, CECD, on behalf of City of West Memphis, AR, submitted a response to the NAVAPS indicating that City of West Memphis, AR did not contest the violation and proposed penalty at issue in this Notice of Penalty. CECD also submitted on behalf of City of West Memphis, AR "Comments on Notice of Alleged Violations of NERC Reliability Standard PER-002, R.3.1" dated January 28, 2008.

Section 4.2.2 of the NERC Sanction Guidelines states that:

If the actual or foreseen impact of the violation is judged to be inconsequential by NERC or the regional entity and the violation is the first incidence of violation of the requirement in question by the violator, NERC or the regional entity may at its discretion: (i) set the Base Penalty Amount to a value it deems appropriate within the initial value range set above pursuant to Section 4.1, or (ii) excuse the penalty for the violation (i.e. set the Base Penalty Amount to 0\$).⁵

⁵ See NERC Sanction Guidelines (emphasis added).

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SERC Reliability Corporation exercised its discretion to assess no penalty for this violation because: (1) it occurred during the period of transition to mandatory standards during which the Commission authorized such discretion (*see* Order Nos. 693 and 693-A⁶); and (2) the violation was deemed by SERC Reliability Corporation not to be a violation that put bulk power system reliability at serious or substantial risk. SERC Staff also considered the following mitigating factors set forth in Appendix 4B to the NERC Rules of Procedure (Sanction Guidelines) with respect to the facts and circumstances of the referenced violations: (1) the violation reflected a deficiency in training program documentation rather than execution of the training program; and (2) City of West Memphis, AR submitted and completed a Mitigation Plan to restore compliance and prevent recurrence of the violation. Furthermore, SERC Staff determined that there were no aggravating factors that would have increased the penalty after the Base Penalty Amount was set to zero. In particular, City of West Memphis, AR was cooperative in the violation investigation. There was no repetitive violation, no negative relevant compliance history, no applicable compliance directives, no evidence of any attempt by City of West Memphis, AR to conceal the violation, or that the violation was intentional, and no aggravating extenuating circumstances that would have led SERC Staff to recommend any penalty beyond zero dollars.

Status of Mitigation Plan⁷

City of West Memphis, AR's Mitigation Plan to address the referenced violation was submitted to SERC Reliability Corporation on January 28, 2008 and was accepted by SERC Reliability Corporation on February 21, 2008 and approved by NERC on March 7, 2008. The Mitigation Plan for the violation listed is designated as MIT-07-0434 and was submitted as non-public information to FERC on March 7, 2008 in accordance with FERC orders. City of West Memphis, AR certified to SERC Reliability Corporation April 30, 2008 that its Mitigation Plan was completed on April 30, 2008. SERC Reliability Corporation reviewed the evidence City of West Memphis, AR submitted in support of its Certification of Completion and determined that City of West Memphis, AR now had in its protocol documents and training program defined training objectives referencing the knowledge and competencies needed to apply standards, procedures, and requirements to normal, emergency, and restoration conditions, as required by PER-002-000 R3.1. On May 12, 2008 SERC Reliability Corporation verified that the Mitigation Plan was timely completed.

Statement Describing the Proposed Penalty, Sanction or Enforcement Action Imposed⁸

FERC Order Excerpts

In Order No. 693, the Commission provided guidance to NERC and the industry on the determination of penalties during the first six month period of mandatory and enforceable Reliability Standards:

⁶ *See* n.1 *supra*.

⁷ *See* 18 C.F.R § 39.7(d)(7).

⁸ *See* 18 C.F.R § 39.7(d)(4).

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222. . . . In light of commenters' concerns, including the fact that there are new aspects to the Reliability Standards and the proposed compliance program that will apply to all users, owners and operators of the Bulk-Power System, *the Commission directs the ERO and Regional Entities to focus their resources on the most serious violations during an initial period through December 31, 2007.* This thoughtful use of enforcement discretion should apply to all users, owners and operators of the Bulk-Power System, and not just those new to the program as originally proposed in the NOPR. This approach will allow the ERO, Regional Entities and other entities time to ensure that the compliance monitoring and enforcement processes work as intended and that all entities have time to implement new processes.

223. *By directing the ERO and Regional Entities to focus their resources on the most serious violations through the end of 2007, the ERO and Regional Entities will have the discretion necessary to assess penalties for such violations, while also having discretion to calculate a penalty without collecting the penalty if circumstances warrant.* Further, even if the ERO or a Regional Entity declines to assess a monetary penalty during the initial period, they are authorized to require remedial actions where a Reliability Standard has been violated. Furthermore, where the ERO uses its discretion and does not assess a penalty for a Reliability Standard violation, we encourage the ERO to establish a process to inform the user, owner or operator of the Bulk-Power System of the violation and the potential penalty that could have been assessed to such entity and how that penalty was calculated. We leave to the ERO's discretion the parameters of the notification process and the amount of resources to dedicate to this effort. Moreover, the Commission retains its power under section 215(e)(3) of the FPA to bring an enforcement action against a user, owner or operator of the Bulk-Power System.

224. *The Commission believes that the goal should be to ensure that, at the outset, the ERO and Regional Entities can assess a monetary penalty in a situation where, for example, an entity's non-compliance puts Bulk-Power System reliability at risk.* Requiring the ERO and Regional Entities to focus on the most serious violations will allow the industry time to adapt to the new regime while also protecting Bulk-Power System reliability by allowing the ERO or a Regional Entity *to take an enforcement action against an entity whose violation causes a significant disturbance.* Our approach strikes a reasonable balance in ensuring that the ERO and Regional Entities will be able to enforce mandatory Reliability Standards in a timely manner, while still allowing users, owners and operators of the Bulk-Power System time to acquaint themselves with the new requirements and enforcement program. In addition, our approach ensures that all users, owners and operators of the Bulk-Power System take seriously mandatory, enforceable

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reliability standards at the earliest opportunity and before the 2007 summer peak season.⁹

Basis for Determination

The NERC BOTCC first reviewed the NOCV and supporting documentation on June 3, 2008. The NERC BOTCC previously approved two related Notice of Penalties, NP08-36-000 and NP08-37-000, involving the same audit of CECD that were filed as part of the initial submission of Notice of Penalty filings in June 2008. Taking into consideration the Commission's direction in Order No. 693, the NERC Sanction Guidelines and the Commission's July 3, 2008 Guidance Order,¹⁰ the NERC BOTCC affirmed SERC Reliability Corporation's determination to exercise enforcement discretion to impose a zero dollar (\$0) penalty against City of West Memphis, AR, based upon 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, NERC BOTCC considered the following:

- As to the instant violation of PER-002-0 R3.1, SERC Reliability Corporation conducted an audit from October 23-25, 2007 of CECD, an entity that performs the Balancing Authority service provider function for City of West Memphis, AR, among other Balancing Authorities. SERC Reliability Corporation found that there were lessons and items for training of each personnel classification, but that the training program did not identify or summarize the desired outcomes or behaviors and did not clearly delineate objectives. As a result, SERC Reliability Corporation found City of West Memphis, AR in violation of PER-002-0, R3.1 for failure to have a set of training program objectives referencing the knowledge and competencies needed to apply standards, procedures and requirements to normal, emergency, and restoration conditions. On January 28, 2008, City of West Memphis, AR, through CECD, responded that it agreed with the violation and proposed penalty at issue in this Notice of Penalty;
- No system disturbance occurred as a result of the violations, and the violation was deemed not to be a violation that put bulk power system reliability at serious or substantial risk. Here, there was a training program in place, however, it failed to comply with the specific requirements of PER-002-0, R3.1;
- The violation was discovered in 2007 (during the period the Commission stated NERC and the Regional Entities should focus their enforcement resources on the most serious violations);
- The violation is the first incidence of violations of the Requirement at issue by City of West Memphis, AR;
- City of West Memphis, AR worked cooperatively with SERC Reliability Corporation;
- City of West Memphis, AR has corrected the violation;

⁹ Order No. 693 at PP 222-224 (emphasis added).

¹⁰ *Guidance on Filing Reliability Notices of Penalty*, 124 FERC ¶ 61,015 (2008).

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- The violation was mitigated in accordance with the approved Mitigation Plan and SERC Reliability Corporation has verified City of West Memphis, AR's Certification of Completion; and
- The actions taken by City of West Memphis, AR ensure that reliability is maintained.

Therefore, NERC believes that the proposed zero dollar (\$0) penalty is appropriate and consistent with NERC's goal to ensure reliability of the bulk power system.

Contemporaneous with the submission of the instant Notice of Penalty, four additional Notices of Penalties are being filed. The underlying facts in all five are identical in nature and involve the same agent referenced herein.

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.

Request for Confidential Treatment of a Portion of One Document

Attachment a to the instant Notice of Penalty includes confidential information as defined by the Commission's regulations at 18 C.F.R. Part 388 and orders, as well as NERC Rules of Procedure including the NERC CMEP Appendix 4C to the Rules of Procedure. Specifically, the information pertains to alleged violations regarding third parties that are not the subject entity of the instant Notice of Penalty. A redacted version of the document in Attachment a is included in the public filing.

In accordance with the Commission's Rules of Practice and Procedure, 18 C.F.R. § 388.112, a non-public version of the information redacted from the public filing is being provided under separate cover. The subject document has been redacted to remove the names and other references to companies other than the company associated with the instant Notice of Penalty filing where those confirmed (or alleged) violations of the other companies have not been yet been submitted to FERC. City of West Memphis is registered as a Balancing Authority in the SERC Reliability Corporation region. CECD, its agent, provides Balancing Authority (BA) services for City of West Memphis, AR and several entities, some located in the SERC Reliability Corporation footprint, and each of the entities within the SERC Reliability Corporation footprint has been alleged by SERC Reliability Corporation to have violated PER-002-0 R.3.1. The document, a response to the NAVAPS provided by CECD for City of West Memphis, AR was also provided on behalf of the other entities as a response to its individual alleged violation. Insofar as the due process steps have not been concluded for each of the entities and the document makes reference to all of the entities individually, SERC Reliability Corporation and NERC believe the redaction of the document is necessary to protect the due process of the entities whose violation has not yet been confirmed. Because certain of the attached documents are deemed "confidential" by City of West Memphis, AR and other third parties that are not subject to the instant Notice of Penalty, NERC requests that the confidential, non-public information be provided special treatment in accordance with the above regulation.

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The Record of the Proceeding¹¹

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

- a) SERC Reliability Corporation Audit Worksheet dated October 26, 2007;
- b) SERC Reliability Corporation Determination Summary;
- c) Notice of Alleged Violation and Penalty or Sanction dated December 28, 2007. CECD submitted, on behalf of City of West Memphis, AR, two separate responses dated January 28, 2008, which are included as Attachment a;
- d) Notice of Confirmed Violation and Penalty or Sanction, dated March 26, 2008. City of West Memphis, AR did not submit a response thereto;
- e) Supplemental Record Information, dated September 22, 2008 and January 8, 2009. City of West Memphis, AR did not submit responses thereto;
- f) Mitigation Plan designated as MIT-07-0434 included as Attachment b;
- g) City of West Memphis, AR's Certification of Completion of the Mitigation Plan dated April 30, 2008, included as Attachment c;
- h) Verification statement of SERC Reliability Corporation Compliance Enforcement Staff Regarding Completion of Mitigation Plan dated May 12, 2008, included as Attachment d;

A Form of Notice Suitable for Publication¹²

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

¹¹ See 18 C.F.R § 39.7(d)(5).

¹² See 18 C.F.R § 39.7(d)(6).

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Notices and Communications

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

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*Persons to be included on the Commission's service list are indicated with an asterisk. NERC requests waiver of the Commission's rules and regulations to permit the inclusion of more than two people on the service list.

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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,

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cc: City of West Memphis, AR
SERC Reliability Corporation

Attachments

Attachment a
Responses to the NAVAPS



Constellation Energy

Control and Dispatch, LLC

*A Member of Constellation Energy
500 Dallas Street, Houston, Texas 77002*

January 28, 2008

Via Email and Certified Mail

SERC Reliability Corporation
Thomas J. Galloway
Compliance Director
2815 Coliseum Centre Drive, #500
Charlotte, NC 28217

Re: Response to Notice of Alleged Violation and Proposed Penalty or Sanction
NERC Violation Tracking ID Number: SERC200700044
SERC Issue Tracking Number: 2007-205

Constellation Energy Control and Dispatch (CECD), as the Balancing Authority service provider, for the City of West Memphis (WMUC), received a Notice of Alleged Violation and Proposed Penalty or Sanction on December 28, 2007. As described in Section III of the Notice, SERC must be notified in writing by January 28, 2008, of WMUC's decision to: (Option 1) not contest the Alleged Violation or the recommended penalty or sanction, (Option 2) not contest the Alleged Violation yet contest the recommended penalty or sanction, or (Option 3) contest both the Alleged Violation and the recommended penalty or sanction.

WMUC has authorized CECD to submit the following on its behalf:

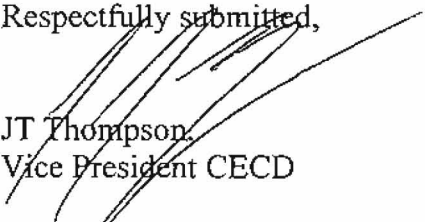
“WMUC agrees with the Alleged Violation of PER-002-0, R3.1 and the proposed penalty or sanction of zero dollars (\$0.00).”

Therefore, in addition to this written response, WMUC is submitting a Mitigation Plan that requires CECD to modify documented training objectives reflected in the Balancing Authority training program.

Please also find attached comments relating to the Alleged Violation which WMUC would like to have posted with the final report of the Balancing Authority's Violation of PER-002-0 R3.1.

Please direct any questions to JT Thompson, Vice President CECD at (713) 332-2901.

Respectfully submitted,


JT Thompson,
Vice President CECD

Cc: Todd Pedersen, City of West Memphis

Comments on Notice of Alleged Violations of NERC Reliability Standard PER-002, R.3.1 (SERC Tracking Number(s): 2007-206, 2007-204,, 2007-202, 2007-223, 2007-205, 2007-203, 2007-201)

Date: January 28, 2008

Statement of Facts

Constellation Energy Control and Dispatch, LLC, (CECD) is the Balancing Authority service provider for ten (10) Balancing Authorities (“Indicated Balancing Authorities”) located in both the SERC Reliability Corporation (SERC) and the Western Electric Coordinating Council (WECC) footprint.¹ Nine (9) of the Balancing Authorities were scheduled to undergo compliance audits in 2007.² The compliance audit started October 23, 2007, with an introduction, a description of the audit process, and an overview of the Balancing Authorities. The audit concluded on October 26, 2007, with a summary of the audit team’s findings, reflecting full compliance by the Balancing Authorities with each of the standards reviewed except one.³ The exception was noted on NERC Reliability Standard PER-002-0, Requirement 3.1, and the audit team expressed their opinion that a Possible Violation existed. The audit team indicated that the required elements were present in the training program; however the documentation did not

¹ SERC: City of North Little Rock (DENL), City of Ruston (DERS), Union Power Partners (PUPP), City of Conway (CNWY), City of West Memphis (WMUC), Batesville Generating Facility unit 1 and 2 (BBA), City of Benton (BUBA)

² The City of Benton (BUBA) started operating as a Balancing Authority in April 2007, and was not included in the compliance audit.

³ BAL 001-003 and 006; CIP 001; COM 001-002; EOP 001-003, 005, and 008; IRO 001, 004, 005, 006; PER 001 and 003, TOP 001, 003, and 005

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adequately capture the requisite objectives. On December 29, 2007, SERC issued Notices of Alleged Violation via email⁴ and certified mail. The “Facts and Evidence of Alleged Violation” presented in Table A of the notice state the “Entity is in violation of PER-002-0. R3.1 for failure to have a set of training program objectives referencing the knowledge and competencies needed to apply standards, procedures, and requirements to normal, emergency, and restoration conditions.”

Issues Presented

Whether the Indicated Balancing Authorities’ training program contains a set of training objectives that are based on NERC and Regional Reliability Organization standards, entity operating procedures, and applicable regulatory requirements? Do the objectives reference the knowledge and competencies needed to apply those standards, procedures, and requirements to normal, emergency and restoration conditions for the Balancing Authority operating positions?

Brief Answer

Yes, the Indicated Balancing Authorities’ training program objectives are defined, they are based on NERC and Regional standards, entity operating procedures and applicable regulatory requirements, and they include references to the knowledge and competencies needed to apply these elements under normal, emergency and restoration conditions for the Balancing Authority as appropriate.

Discussion

The Personnel Performance, Training and Qualification standards have been a topic of discussion for many years. In fact, well before FERC began to review standards

⁴ Email from Cindy Rankin to JT Thompson on December 28, 2007, at 04:19 PM. Attachment “Constellation Energy Control PKG (7) 12-28-07” contains the “Notice of Alleged Violation and Proposed Penalty or Sanction” for each of the SERC Balancing Authorities.

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in preparation for Order 693 there was a proposal, a Standards Authorization Request (SAR), submitted for industry consideration by the NERC Personnel Subcommittee dealing with training system operators.⁵ This post-August 2003 Blackout SAR stated that “[a] training standard is required to set the minimum acceptable requirements for the development, implementation and maintenance of initial and continuing System Personnel Training Programs.” The subsequent revisions to the SAR further clarified the need for, and purpose of, a new training standard, leading to the drafting phase of the process.⁶ NERC Reliability Standard PER-005-0 was initially posted for comment near the end of 2006 with a requirement for a Balancing Authority to document [in its training program], for each activity [identified in a job task analysis], the objectives and assessments that duplicate [mirror] the criteria for successful performance of a defined activity and mastery of the knowledge and skills needed to perform the related task.⁷ The latest draft of the proposed standard establishes the mandate to develop a systematic approach to training (SAT), including a company-specific list of task performed by the operators and an obligation to verify the operator’s ability to perform the tasks listed.⁸ Furthermore, measures in this draft require a Balancing Authority to have available for inspection evidence of an SAT-developed BES System Operator training program with evidence of the following SAT-related outcomes in addition to the task list: (M1.2)

⁵ Standard Authorization Request, System Personnel Training, Requestor NERC Personnel Subcommittee, Request Date July 1, 2004 (revised December 1, 2004)

⁶ Standard Authorization Request, System Personnel Training, Requestor NERC Personnel Subcommittee, Request Date July 1, 2004 (revised February 8, 2006) [Required competency cannot be measured without taking a systematic approach to developing training, which includes determining competency required by tasks and the existing competency of employees.”] Standard Authorization Request, System Personnel Training, Requestor NERC Personnel Subcommittee, Request Date July 1, 2004 (revised April 12, 2006) [The purpose of this training SAR is to “ensure that System Operators performing real-time, reliability related tasks on the North American Bulk Electric System are competent to perform those tasks. The competency of system operators is critical to the reliability of the North American Bulk Electric System.”]

⁷ NERC Reliability Standard PER-005-0, System Operator Training, Draft 1, Requirement 7 and 7.9.

⁸ NERC Reliability Standard PER-005-0, System Operator Training, Draft 2, Requirement 1 and 4.

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training materials that result in learning objectives and content that is derived from results of training analysis and (M1.4) evaluations and assessments of training delivered to determine if learning objectives are met.

The overarching theme for the new training standard has been to clarify that training objectives for an explicit task, or set of tasks, should be defined to ensure competency. In other words, a learning objective should be linked with identified job tasks performed by the operator to permit a trainer to measure actual understanding. This brief history of the new training standard illustrates two points that CECD would like to highlight. First, the modifications demonstrate that detailed Requirements are designed to ensure training programs meet the more explicit expectations of the enforcement authorities. Secondly, it is clear that the current PER-002-0 standard does not specify compliance elements in this level of detail and the current training program requirements should be judged accordingly.

The current NERC Reliability Standard PER-002-0, Operating Personnel Training, contains four (4) requirements applicable to Balancing Authorities. The first requirement is for entities to be staffed with “adequately trained” operating personnel. The second requirement describes the operating personnel who must participate in the training program. The third requirement describes the objectives of the training program. The fourth, and last, requirement establishes an emergency operations training obligation. The audit team found the Balancing Authorities to be fully compliant with each of the above requirements except for Section 3.1. of Requirement 3, which states:

- R3. The Balancing Authority shall provide a training program meeting the following criteria:

- R3.1 A set of training program objectives must be defined, based on NERC and Regional Reliability Organization standards, entity operating procedures, and applicable regulatory requirements. These objectives shall reference the knowledge and competencies needed to apply those standards, procedures, and requirements to normal, emergency, and restoration conditions for the Transmission Operator and Balancing Authority operating positions.

In the present cases, evidence was presented that a training program does exist for the appropriate operating personnel that perform Balancing Authority services.⁹ The evidence consisted of multiple documents; including material from NERC approved training programs, which in combination reflect a training program with appropriate objectives.

Foremost in response to these allegations are examples of the objectives embedded in the training program (See Attachment A). In *PER-002-0 Operating Personnel Training* Section 1.2, operators “are required to complete and document their training in coordination with the CECD Vice President, which at minimum consists of the following:” (i) forty hours of training in emergency operation, per NERC recommendations or through an accredited program, (ii) maintaining Balancing Authority certification, related skills and knowledge through on-the-job training that reinforces operating procedures that are in compliance with NERC and Regional Reliability Standards, testing and continuing education requirements, and (iii) attending courses held by qualified third party vendors approved by the CECD Vice President. In the same document there is a list of Recommended Operating Training Topics, generated in the

⁹ Master Balancing Authority Protocol PER-002-0 Operating Personnel Training, CECD Staffing Policy, Training Policy – Goals and Objectives Constellation Energy Control and Dispatch Department, Training Procedures and Guidelines Constellation Energy Control and Dispatch Department, System Operator Initial Training Program (Overview), Ongoing Training Program, OJT Qualification Card, and the CECD System Operator Initial Training Program Notebook.

NERC Operating Committee that the Indicated Balancing Authorities use as a guide for determining appropriate training subject matter. In the *Training Policy – Goals and Objectives Constellation Energy Control and Dispatch Department*, section 3.1 it states that the goal for the training program is “to meet or exceed the ERO and RE [Regional Entity] training requirements, CECD Qualifications, and to maintain records of required training for periodic audit and review.” Likewise, the objective in the Training Policies is to develop a training program that ensures operators maintain the core knowledge requirements established in the ERO and RE standards, as well as knowledge that is pertinent to the operation of the Balancing Authority Areas serviced by CECD. In the *Training Procedures and Guidelines Constellation Energy Control and Dispatch Department*, there is a description of where specific training objectives are located as well as an example of a training objective.¹⁰ In the *Initial Training Program* (outline) there are fourteen subject areas with information related to course identification and course objectives.¹¹ In the first subject area *Electric Industry Overview* the class title is Electric Power 101 and the objectives are to show the “evolution of the industry” and “our impact on the system.” Other examples from the subject areas include *Power Generation Fundamentals* (objective is to understand “Power Plant Basics, Field Trip to Power Plant, and GO/GOP standards”) or *Effective Communication Training* (objective is to “Identify the four stages of the effective communication skills cycle, appreciate the skills involved in effective communication, identify your natural communication style, see

¹⁰ (“CECD maintains a training plan which contains both initial and ongoing training programs that contain objectives that are tied to NERC and Regional standards and their application in maintaining reliable operations. . . . For example, both new and experienced operators must have knowledge of basic electricity fundamentals, the Reliability Standard Requirements and tasks, tools, or procedures described in the Qualification Card.”)

¹¹ Attachment B reflects a matrix of the subject areas and their related objectives/knowledge and competency and operating conditions, if applicable.

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how your communication style can impact the communication process, and understand how to improve the way you communicate). There also may be examples where a training objective is captured in the training material. In the subject area, *Electrical Theory & Principles*, a training module developed by PJM is used that consists of six lessons and the unit objectives are described within each lesson. There are also examples where a general objective is listed in the outline, but a more specific objective is listed in the training material. Under the *Normal Operations* subject area, there is a general objective described as *CECD Operations Manual*. Inside the training material there is a clear-cut objective to “provide system operators with an outline of the structure of the manual and how they are to use it.” The objective stated in the *Ongoing Training Program* is to require operators to:

“participate in training that focuses on NERC and Regional standards and their application in maintaining reliable operations under, normal, emergency, and restoration conditions. The initial training program contains a list of relevant topics which experienced operators shall use to determine if they maintain the level of knowledge and competency. In addition, the following training objectives must be met: (1) Meet all continuing education requirements established by NERC and Regional Entities. (2) Meet Emergency Training requirements established by NERC.

The OJT Qualification Card (the Qual Card) lists job tasks/objectives that must be mastered by system operating personnel with a sign-off needed by management. Based on the information presented, it is clear that the training program does have appropriate objectives as required by section 3.1.

It also is important to note that the training objectives simultaneously reflect the knowledge and competencies that are expected from the system operators. In other words, the objectives of a training program are intended to reflect the range of

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information with which operators should be familiar to be qualified to perform their job. Additionally, not every training objective deals with the application of NERC and Regional Reliability Organization standards, entity operating procedures, and applicable regulatory requirements to normal, emergency, and restoration conditions for a system operator. Training may be provided to establish a general understanding of a certain subject matter, such as industry history or electrical theory, rather than to teach a definite operator response under a limited set of operating conditions. There are training objectives that apply some combination of the three operating conditions described. For example, material may focus on emergency and restoration operations but not normal operation. This is a reasonable interpretation given that the alternative would require every training objective, regardless of the material presented, to include statements relating to normal, emergency and restoration conditions and likely subject many training programs to a non-compliance finding. Therefore, a reference to normal, emergency and restoration conditions are not always applicable to every objective in a training program, and that a training objective cannot be judged non-compliant for not referencing non-applicable operating conditions.

Conclusion

The industry has recognized the need for modifications to the existing training standard for some time now, and the changes will require a significant overhaul of many existing training programs. Though the training program at issue may not meet all the requirements described in the new standard, it does appear, based on the information reflected above, to meet the minimum requisites under the existing requirements. First, there are objectives reflected in the training program documents. Secondly, these

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objectives reflect the knowledge and competency for the training material. Finally, where applicable the objectives reference normal, emergency and restoration activities. The training program is being revised to capture the recommendations of the audit team as a matter of good operating practice and in preparation for the new training standard. For this reason, and because SERC is not proposing any penalties with respect to this alleged violation, the Indicated Balancing Authorities will not contest the notice.

Attachment b

Mitigation Plan designated as MIT-07-0434



Mitigation Plan Submittal Form

Date this Mitigation Plan is being submitted: 01/28/2008

If this Mitigation Plan has already been completed:

- Check this box and
- Provide the Date of Completion of the Mitigation Plan:

Section A: Compliance Notices

- Section 6.2 of the CMEP¹ 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.

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



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

Section B: Registered Entity Information

B.1 Identify your organization:

Company Name: City of West Memphis
Company Address: 604 E. Cooper Avenue, West Memphis, AR 72301
NERC Compliance Registry ID *[if known]*: NCR01204

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

Name: J.T. Thompson
Title: Vice President, Constellation Energy Control And Dispatch
Email: jt.thompson@constellation.com
Phone: 713-332-2901



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

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

C.1 Standard: PER-002-0 R3.1
[Identify by Standard Acronym (e.g. FAC-001-1)]

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

NERC Violation ID # [if known]	SERC Violation ID # [if known]	Requirement Violated (e.g. R3.2)	Violation Date ^(*)
SERCYYYYnnnnn	YYYY-nnn	Rn.n.n	MM/DD/YYYY
SERC200700044	2007-205	R3.1	06/18/2007

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

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

The documentation on the Balancing Authority System Operator Training Program needs to capture more detailed objectives.
[Provide your response here; additional detailed information may be provided as an attachment as necessary]

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

The training program was found to have adequate training objectives by a compliance audit team, and the documentation of the training program contains training objectives; however, the documentation did not have the level of detail expected by enforcement authorities based on their interpretation of the standard.



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



Section D: Details of Proposed Mitigation Plan

Mitigation Plan Contents

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

The Balancing Authority sent personnel to Train the Trainer courses provided by SERC and is currently reviewing the training program and relevant documentation. In coordination with training subject-matter experts, the Balancing Authority will modify documentation by revising the training objectives. The Balancing Authority will ensure that these objectives reflect the knowledge and competency required of a system operators under normal, emergency and restoration conditions. The revised documentation will be included in the Balancing Authority Protocols and released to system operating personnel for review. The modified training objectives will then be incorporated into the training provided to system operators.

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

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

Mitigation Plan Timeline and Milestones

- D.2 Provide the timetable for completion of the Mitigation Plan, including the completion date by which the Mitigation Plan will be fully implemented and the violations associated with this Mitigation Plan are corrected: The Balancing Authority sent personnel to Train the Trainer courses provided by SERC (completed November 29, 2007) and is currently reviewing the training program and relevant documentation (expected completion date February 28, 2008). In coordination with training subject-matter experts, the Balancing Authority will modify documentation by revising the training objectives. The Balancing Authority will ensure that the objectives reflect the knowledge and competency required for a system operator under normal, emergency and restoration conditions (expected completion date March 31, 2008). The revised documentation will be



included in the Balancing Authority Protocols and released to system operating personnel for review (April 15, 2008). Documentation and evidence of compliance will be submitted to SERC and the mitigation plan will be closed (April 30, 2008). The modified training objectives will then be incorporated into the training provided to system operators.

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

Milestone Activity	Proposed Completion Date* (shall not be more than 3 months apart)
Train-the-Trainer Course - Training Program/Documentation Review	02/28/08
Revise Training Objectives	03/31/08
Include Revisions in Operating Protocols and distribute to system operators	04/15/08
Submit Evidence to SERC and close the Mitigation Plan	04/30/08

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

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



Additional Relevant Information (Optional)

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

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

Section E: Interim and Future Reliability Risk

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

Abatement of Interim BPS Reliability Risk

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

There is no interim risk to protect against, given this issue relates only to documentation revisions of the training objectives in the Balancing Authority existing Training Program.

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

Prevention of Future BPS Reliability Risk

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

The documentation modifications will provide more detailed training objectives to meet the elements of PER-002-0 R3.1. The detailed format



will also be applied in developing future training objectives to ensure compliance with this requirement.

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

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

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

Continued on Next Page



Section F: Authorization

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

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

Authorized Individual Signature

(Electronic signatures are acceptable; see CMEP)

Name (Print): J.T. Thompson
Title: Vice President
Date: 01/17/08

A handwritten signature in black ink, appearing to read 'J.T. Thompson', is written over a horizontal line.



Section G: Comments and Additional Information

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

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

Submittal Instructions:

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

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

Email the pdf file to serccomply@serc1.org.

Please direct any questions regarding completion of this form to:

Ken Keels
Manager, Compliance Enforcement
SERC Reliability Corporation
704-357-7372
kkeels@serc1.org

Attachment c

City of West Memphis, AR's Certification of Completion of the Mitigation Plan

Print on Registered Entity's Corporate Letterhead

To Close Out a Completed Mitigation Plan, fill out this form, save and email it to serccomply@serc1.org.

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

Certification of a Completed Mitigation Plan

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

Name of Registered Entity submitting certification: City of West Memphis (WMUC)

Date of Certification: 4/30/08

Name of Standard and the Requirement(s) of mitigated violation(s): PER-002-0, R3.1

SERC Tracking Number (contact SERC if not known): 2007-205

NERC Violation ID Number (if assigned): SERC200700044

Date of completion of the Mitigation Plan: 4/30/08

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

Name: JT Thompson

Title: Vice President

Entity: Constellation Energy Control and Dispatch on behalf of WMUC

Email: jt.thompson@constellation.com

Phone: 713-332-2901

Executive Signature _____

Date 4/25/08

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

Attachment d

SERC Reliability Corporation's Verification of Completion of the Mitigation Plan



SERC Reliability Corporation
2815 Coliseum Centre Drive | Suite 500
Charlotte, NC 28217
704.357.7372 | Fax 704.357.7914 | www.serc1.org

Statement of SERC Reliability Corporation Compliance Enforcement Staff Regarding Completion of Mitigation Plan

May 12, 2008

Registered Entity: City of West Memphis
SERC Tracking ID: 07-205
NERC Violation No: SERC200700044
NERC Mitigation Plan ID: MIT-07-0434

SERC Reliability Corporation Compliance Enforcement Staff ("SERC Staff") has completed a review of the evidence submitted by City of West Memphis in support of its Certification of Completion of the subject Mitigation Plan. Based on its review, SERC Staff has verified City of West Memphis's certification on April 30, 2008 that the subject Mitigation Plan has been completed on April 30, 2008 in accordance with its terms.

Attachment e

Notice of Filing

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

City of West Memphis, AR

Docket No. NP09-____-000

NOTICE OF FILING
(DATE)

Take notice that on January 21, 2009, the North American Electric Reliability Corporation (NERC), filed a Notice of Penalty regarding City of West Memphis, AR in the SERC Reliability Corporation region.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, D.C. There is an "eSubscription" link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: [BLANK]

Kimberly D. Bose,
Secretary