



NORTH AMERICAN ELECTRIC  
RELIABILITY CORPORATION

December 30, 2009

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

**Re: NERC Notice of Penalty regarding Fountain Valley Power, LLC, 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 Fountain Valley Power, LLC (FVP), NERC Registry ID NCR05162,<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>

As discussed below, on August 11, 2008, FVP was found non-compliant with Reliability Standard FAC-008-1 Requirement (R) 1 during an off-site compliance audit for its failure to include a statement in its Facility Ratings Methodology that the Facility Rating was equal to the most limiting applicable Equipment Rating of the individual equipment that comprises its facility. This Notice of Penalty is being filed with the Commission because, based on information from Western Electricity Coordinating Council (WECC), FVP does not dispute the violation of FAC-008-1 R1 and the proposed zero dollar (\$0) financial penalty to be assessed to FVP. Accordingly, the violation identified as NERC Violation Tracking Identification Number WECC200801111 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 May 6, 2009, by

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<sup>1</sup> *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards* (Order No. 672), III FERC Stats. & Regs. ¶ 31,204 (2006); *Notice of New Docket Prefix "NP" for Notices of Penalty Filed by the North American Electric Reliability Corporation*, Docket No. RM05-30-000 (February 7, 2008). See also 18 C.F.R. Part 39 (2008). *Mandatory Reliability Standards for the Bulk-Power System*, FERC Stats. & Regs. ¶ 31,242 (2007) (Order No. 693), *reh'g denied*, 120 FERC ¶ 61,053 (2007) (Order No. 693-A).

<sup>2</sup> Western Electricity Coordinating Council confirmed that FVP, was included on the NERC Compliance Registry on June 17, 2007 as a Generator Owner and a Generator Operator and, as a Generator Owner, is subject to the requirements of the NERC Reliability Standard contained herein.

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

WECC. 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 the Reliability Standard at issue in this Notice of Penalty.

Region	Registered Entity	NOC ID	NERC Violation ID	Reliability Std.	Req. (R)	VRF	Total Penalty (\$)
WEC C	Fountain Valley Power, LLC	NOC-198	WECC20080111	FAC-008-1	1	Lower/Medium <sup>4</sup>	0

The purpose of Reliability Standard FAC-008-1 is to ensure that Facility Ratings used in the reliable planning and operation of the Bulk Power System (BPS) are determined based on an established methodology or methodologies.

FAC-008-1 R1 requires a Generation Owner, such as FVP, to document its current methodology used for developing Facility Ratings (Facility Ratings Methodology) of its solely and jointly owned Facilities. Specifically, FAC-008-1 R1.1 requires that the Facilities Ratings Methodology include a statement that a Facility Rating shall equal the most limiting applicable Equipment Rating of the individual equipment that comprises that Facility. FAC-008-1 R1 has a "Lower" Violation Risk Factor (VRF) and R1.1 has a "Medium" VRF.

According to WECC, an off-site audit was conducted on August 11, 2008 and WECC identified FVP's non-compliance with FAC-008-1 R1. Based on information provided by FVP, interviews with FVP staff and reviewing FVP's *Procedure FAC-008*, WECC determined that FVP had a documented Facility Ratings Methodology comprised of the manufacturers' methods for establishing ratings. However, FVP's methodology did not include the specific statement that the Facility Rating shall equal the most limiting applicable Equipment Rating of the individual equipment that comprises the Facility.

On August 22, 2008, FVP submitted a completed Mitigation Plan to WECC along with a copy of its revised Facility Ratings Methodology which included the following statement: "The Fountain Valley Facility Rating shall equal the most limiting applicable Equipment Rating of the

<sup>4</sup> The Violation Risk Factor (VRF) assigned to FAC-008-1 R1 is "Lower," but the VRF assigned to FAC-008-1 R1.1 is "Medium" (after being changed from "Lower" on February 6, 2008). While the instant violation was assigned by WECC at the main requirement level, the instant violation pertains to FAC-008-1 R1.1. When NERC filed VRFs it originally assigned FAC-008-1 R1.1 a "Lower" VRF. The Commission approved the VRF as filed; however, it directed NERC to submit modifications. NERC submitted the modified "Medium" VRF, which was approved by the Commission on February 6, 2008. Therefore, the Lower VRF for FAC-008-1 R1.1 was in effect from June 18, 2007 until February 6, 2008 when the Medium VRF became effective.

individual equipment that comprises Fountain Valley” and effectively mitigated the subject violation.

WECC determined that the duration of the subject violation was from June 18, 2007, when the Reliability Standard became enforceable, until August 22, 2008, when FVP mitigated the violation.

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\$).*<sup>5</sup>

WECC exercised its discretion to assess no penalty for this violation because: (1) the violation was deemed by WECC not to be violation that put BPS reliability at serious or substantial risk; (2) the violation was FVP’s first assessed violation of this Reliability Standard; (3) FVP was cooperative throughout the Compliance Audit and Enforcement process; (4) there was no attempt by FVP to conceal the violation or evidence that the violation was intentional; and (5) in practice, FVP was ensuring that the Facility Rating is equal to the most limiting equipment because it established Facility Ratings twice a year through the actual capacity testing; therefore, it was a documentation issue. WECC 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 violation: (1) FVP submitted and completed its Mitigation Plan to restore compliance and prevent recurrence of the violation; and (2) it was a documentation only issue, because FVP had a Facility Ratings Methodology comprised of the manufacturers’ methods for establishing ratings.

### **Status of Mitigation Plan**

FVP’s Mitigation Plan to address the referenced violation was submitted as complete to WECC on August 22, 2008, was accepted by WECC on November 17, 2008 and was approved by NERC on January 12, 2009. The Mitigation Plan for the violation of FAC-008-1 R1 is designated as MIT-08-1297 and was submitted as non-public information to FERC on January 12, 2009, in accordance with FERC orders. FVP’s Mitigation Plan required the following actions to correct the referenced violation:

- Add the statement “The Fountain Valley Facility Rating shall equal the most limiting applicable Equipment Rating of the individual equipment that comprises Fountain Valley” to its Facility Rating Methodology - Completed August 22, 2008.

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<sup>5</sup> See NERC Sanction Guidelines (emphasis added).

FVP certified to WECC on August 22, 2008 that its Mitigation Plan was completed on August 22, 2008 and submitted its Facility Rating Methodology document, *the Black Hills Generation, Reliability Compliance Manual, Fountain Valley Power, LLC, FAC-008-1 Facility Ratings Methodology, Rev 3, August 22, 2008*, as evidence of its completion. WECC reviewed the evidence submitted by FVP in support of its Certification of Completion and determined that FVP's Mitigation Plan was complete. On November 17, 2008, WECC verified that FVP completed its Mitigation Plan and was therefore compliant with FAC-008-1 R1.

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

### **Basis for Determination**

Taking into consideration the Commission's direction in Order No. 693, the NERC Sanction Guidelines and the Commission's July 3, 2008 Guidance Order,<sup>6</sup> the NERC BOTCC reviewed the NOCV and supporting documentation on November 6, 2009. The NERC BOTCC approved the assessment of a zero dollar (\$0) financial penalty against FVP based upon WECC's findings and determinations, the NERC BOTCC's review of the applicable requirements of the Commission-approved Reliability Standards and the underlying facts and circumstances of the violation at issue.

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

- The violation was deemed not to be a violation that put bulk power system reliability at serious or substantial risk because the violation was documentation related as FVP had the proper Facility Ratings;
- The violation is the first incidence of violation of the Requirements at issue, or similar Requirements, by FVP.

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

Pursuant to Order No. 693, the penalty will be effective upon expiration of the 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.

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<sup>6</sup> *North American Electric Reliability Corporation*, "Guidance Order on Reliability Notices of Penalty," 124 FERC ¶ 61,015 (2008).

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

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

- a) WECC's screen shot of the Audit report, showing a deemed date of August 11, 2008, included as Attachment a;
- b) Mitigation Plan and Certification of Completion designated as MIT-08-1297 submitted August 22, 2008, included as Attachment b; and
- c) WECC's Verification of Completion of the Mitigation Plan, dated November 18, 2008, included as Attachment c.

### **A Form of Notice Suitable for Publication<sup>7</sup>**

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

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<sup>7</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:

David N. Cook\*  
Vice President and General Counsel  
North American Electric Reliability Corporation  
116-390 Village Boulevard  
Princeton, NJ 08540-5721  
(609) 452-8060  
(609) 452-9550 – facsimile  
david.cook@nerc.net

Christopher Luras\*  
Manager of Compliance Enforcement  
Western Electricity Coordinating Council  
615 Arapeen Drive, Suite 210  
Salt Lake City, UT 84108-1262  
(801) 883-6887  
(801) 883-6894 – facsimile  
CLuras@wecc.biz

Joel Stahn\*  
Plant Manager  
Fountain Valley Power, LLC  
18693 Boca Raton Heights  
Pueblo, CO 81008  
(719) 382-5885  
(719) 382-5906 – facsimile  
Joel.Stahn@southwestgen.com

\*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.

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

Louise McCarren\*  
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Western Electricity Coordinating Council  
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(801) 883-6894 – facsimile  
SGoodwill@wecc.biz

**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  
North American Electric Reliability  
Corporation  
1120 G Street, N.W.  
Suite 990  
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116-390 Village Boulevard  
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(609) 452-8060  
(609) 452-9550 – facsimile  
david.cook@nerc.net

cc: Fountain Valley Power, LLC  
Western Electricity Coordinating Council

Attachments

## **Attachment a**

**WECC's screen shot of the Audit report, showing  
a deemed date of August 11, 2008**





Compliance and Registration Database  
**Post Violations Tracking and Reporting**

Region:  Violation Date:  WECC ID:   
 Entity:  Acronym:  Registry ID:  NERC violation ID:   
 Standard:  Facility Ratings Methodology:

<b>Disposition Final Record</b>	<b>Mitigation Plan</b>	<b>RAD and RAD Appeal</b>	<b>Internal Notes</b>	<b>Pre-June 18</b>
<b>Initial Notice</b>	<b>NAVAPS</b>	<b>Proposed Sanction Penalty</b>	<b>Contested Hearing</b>	

Requirement:  Repeat Alleged Violation?   
 Initial Determination by Region:   
 Reporting Method:   
 On Site Audit  Off Site Audit   
 Deemed Date:   
 Violation Level:   
 Violation Risk Factor:   
 Alleged Violation Time:   
 Alleged Violation End Date:   
 Violation Description:  
  
 Regional Contact Person:

Applicable Functions:   
 Regional Determination of Impact to BPS:   
 Detailed Description of Potential Impact to BPS:  
  
 ID sent to Entity:   
 Additional Comments

## **Attachment b**

**FVP's Mitigation Plan and the Certification of  
Completion as MIT-08-1297, submitted August  
22, 2008**



## Mitigation Plan Submittal Form

New  or Revised

Date this Mitigation Plan is being submitted: 8/22/08

If this Mitigation Plan has already been completed:

- Check this box  and
- Provide the Date of Completion of the Mitigation Plan: 8/22/08

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

A.1 Notices and requirements applicable to Mitigation Plans and this Submittal Form are set forth in "Appendix A - Compliance Notices & Mitigation Plan Requirements" to this form. **Review Appendix A and check this box  to indicate that you have reviewed and understand the information provided therein.** This Submittal Form and the Mitigation Plan submitted herein are incomplete and cannot be accepted unless the box is checked.

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

B.1 Identify your organization:

Registered Entity Name: Fountain Valley Power, LLC  
Registered Entity Address: 18693 Boca Raton Heights, Pueblo, CO  
81008  
NERC Compliance Registry ID: NCR05162

B.2 Identify the individual in your organization who will be the Entity Contact regarding this Mitigation Plan. Please see Section 6.2 of the WECC Compliance Monitoring and Enforcement Program (CMEP) for a description of the qualifications required of the Entity Contact.<sup>1</sup>

Name: Joel R. Stahn  
Title: Plant Manager  
Email: StahnJ@Southwestgen.com

<sup>1</sup> A copy of the WECC CMEP is posted on WECC's website at <http://www.wecc.biz/documents/library/compliance/manuals/Att%20A%20-%20WECC%20CMEP.pdf>. Registered Entities are responsible for following all applicable WECC CMEP procedures. WECC strongly recommends that registered entities become familiar with the WECC CMEP and its requirements, as they may be amended from time to time.



Western Electricity Coordinating Council

Phone: 719-382-5885



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

This Mitigation Plan is associated with the alleged or confirmed violation(s) of the reliability standard/requirements listed below:

C.1 Standard: FAC-008-1  
*[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]	WECC Violation ID # [if known ]	Requirement Violated (e.g. R3)	Violation Risk Factor	Alleged or confirmed Violation Date <sup>(*)</sup> (MM/DD/YY)	Method of Detection (e.g. audit, self-report, investigation)
		R1	Low	8/11/08	Audit

(\* Note: The Alleged or Confirmed Violation Date shall be: (i) the date the violation occurred; (ii) the date that the violation was self-reported; or (iii) the date upon which WECC has deemed the violation to have occurred. Please contact WECC if you have questions regarding which date to use .

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

The alleged violation was discovered during a offsite audit. The cause was due to interpretation of the requirement. The facility explained how the Facility Rating is determined, but R1 states that there must be a statement that indicates the facility rating shall equal the most limiting applicable Equipment Rating of the individual equipment that comprises the facility.

*[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 alleged or confirmed violations associated with this Mitigation Plan:



This alleged violation is a technicality and Fountain Valley actual proves its facility rating through performance testing two times per year.  
 [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 following statement was added to FAC-008-1 R1 "The Fountain Valley Facility Rating shall equal the most limiting applicable Equipment Rating of the individual equipment that comprises Fountain Valley."  
 [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 alleged or confirmed violations associated with this Mitigation Plan corrected:

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

Milestone Activity	Proposed Completion Date* (milestones cannot be more than 3 months apart)



(\*) Note: Implementation milestones should be no more than three (3) months apart for Mitigation Plans with expected completion dates more than three (3) months from the date of submission. As set forth in CMEP section 6.6, adverse consequences could result from failure to complete, on a timely basis, all required actions in this Mitigation Plan, including implementation of milestones. A request for an extension of the completion date of any milestone or of the Mitigation Plan must be received by WECC at least five (5) business days before the relevant milestone or completion date.

[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, 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 known, reasonably suspected or anticipated: (i) identify any such risks or impacts; and (ii) discuss any actions that your organization is planning to take or is proposing as part of the Mitigation Plan to mitigate any increased risk to the reliability of the bulk power system while the Mitigation Plan is being implemented:

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

### Prevention of Future BPS Reliability Risk

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

The facility has a better understanding of what NERC would like to see for compliance under FAC-008-1 R1.  
[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:



No further action will be taken by Fountain Valley on this issue.  
[Provide your response here; additional detailed information may be provided as an attachment as necessary]







**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.

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

**Section H: WECC Contact and Instructions for Submission**

Please direct any questions regarding completion of this form to:

Jim Stuart, Sr. Compliance Engineer

Email: [JStuart@wecc.biz](mailto:JStuart@wecc.biz)

Phone: (801) 883-6887

For guidance on submitting this form, please refer to the "*WECC Compliance Data Submittal Policy*". This policy can be found on the Compliance Manuals website as Manual 2.12:

<http://www.wecc.biz/wrap.php?file=/wrap/Compliance/manuals.html>

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

- I. Section 6.2 of the WECC CMEP 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.
  - (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 may be used to provide a required Mitigation Plan for review and approval by WECC and NERC.



*Western Electricity Coordinating Council*



- III. The Mitigation Plan shall be submitted to the WECC and NERC as confidential information in accordance with Section 9.3 of the WECC CMEP and Section 1500 of the NERC Rules of Procedure.
- IV. This Mitigation Plan 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 violations with respect to each additional Reliability Standard, as applicable.
- V. If the Mitigation Plan is approved by WECC and NERC, a copy of the Mitigation Plan will be provided to the Federal Energy Regulatory Commission in accordance with applicable Commission rules, regulations and orders.
- VI. Either WECC or NERC may reject a Mitigation Plan that it determines to be incomplete or inadequate. If the Mitigation Plan is rejected by either WECC or NERC, the Registered Entity will be notified and required to submit a revised Mitigation Plan.
- VII. In accordance with Section 7.0 of the WECC CMEP, remedial action directives also may be issued as necessary to ensure reliability of the bulk power system.

**Attachment c**

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''''''WECC's Xgt hccvqp'qh'E qo r ngvqp'qh'vj g'  
O kki cvqp Rrcp, dated November 1: , 200:

**CONFIDENTIAL**



**Bob Kiser**  
Manager of Audits and Investigations

360.980.2799  
bkiser@wecc.biz

November 18, 2008

Joel Stahn  
Plant Manager  
Fountain Valley Power, LLC  
18693 Boca Raton Heights  
Pueblo, Colorado 81008

Subject: Mitigation Plan Completion Review(s)

Dear Joel Stahn,

The Western Electricity Coordinating Council (WECC) received Mitigation Plan Completion Form(s) and supporting evidence for each violation listed in Table 1 of Attachment A. The table indicates which plans have been completed and which remain incomplete. Attachment A also includes audit notes that detail the findings supporting this conclusion.

Each compliance violation associated with the incomplete Mitigation Plan(s) is now subject to sanctions and penalties under the Energy Policy Act of 2005. You will be receiving a letter from the WECC Compliance Department outlining the next steps in the penalty and sanction process regarding such violation(s).

Please submit a revised Mitigation Plan by December 2, 2008, including new proposed completion dates, for each unmitigated violation identified in Attachment A. The Mitigation Plan template form can be found on the WECC Compliance Manuals webpage, as Manual 03.03:

<http://www.wecc.biz/wrap.php?file=/wrap/Compliance/manuals.html>

Upon review, the WECC Compliance Department will provide written notice of its acceptance or rejection of the newly submitted Mitigation Plan.

If you have any questions or concerns, please contact Mike Wells at (801) 883.6884 or [mike@wecc.biz](mailto:mike@wecc.biz). Thanks for your assistance in this effort.

**CONFIDENTIAL**

Sincerely,

*Bob Kiser*

Bob Kiser  
Manager of Audits and  
Investigations

BK:gc

Attachment

Cc: Tony Speechley, FVP O&M Manager  
Lisa Milanes, WECC Manager of Compliance Administration  
Ed Ruck, NERC Regional Compliance Program Coordinator



*Western Electricity Coordinating Council*

**Registered Entity:** Fountain Valley Power, LLC

**Date:** November 18, 2008

	<b>Standard Number</b>	<b>Requirement</b>	<b>Completion Received by WECC</b>	<b>Accepted</b>	<b>Rejected</b>	<b>Review Status</b>
1	FAC-008-1	1	22-Aug-08	17-Nov-08		Compliant



**Attachment d**

**Notice of Filing**

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Fountain Valley Power, LLC Docket

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

NOTICE OF FILING  
December 30, 2009

Take notice that on December 30, 2009, the North American Electric Reliability Corporation (NERC) filed a Notice of Penalty regarding Fountain Valley Power, LLC in the Western Electricity Coordinating Council 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