



August 25, 2010

**VIA ELECTRONIC FILING**

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

Re: NERC Notice of Penalty regarding Kiowa Power Partners, LLC  
FERC Docket No. NP10-149-000

Dear Ms. Bose:

On July 30, 2010, the North American Electric Reliability Corporation (NERC) submitted a Notice of Penalty regarding violation of Reliability Standards FAC-003-1 Requirement (R) 2 for Kiowa Power Partners, LLC (Kiowa). By this filing, NERC supplements the record by providing the following information in support of the filing.

First, the violation does not appear to be motivated by economic gain, rather it was due, in part, to the inadvertent misplacement of a pole and related costs for replacement power were not borne by the market. As a Generator Owner in the Electric Reliability Council of Texas, Inc. (ERCOT) region, Kiowa contracts with and must schedule its generation through a Qualified Scheduling Entity (QSE). QSEs in the ERCOT region schedule their planned resources on a portfolio basis, which portfolio frequently includes multiple generation sources. When Kiowa was short generation on August 1, 2008 and August 3, 2008, Kiowa's QSE was able to procure sufficient generation to meet the QSE's MW schedule (resource plan), even though load was high on this summer day. ERCOT did not have to procure any power. All monetary issues relating to the generation amounts were dealt with by Kiowa and its QSE, pursuant to their contract. As a result, the ERCOT grid was not affected and there was no related economic impact on the market stemming from the violation at issue in the Notice of Penalty.

In the Notice of Penalty, NERC also noted that the pole at issue was located 100 feet from the as-designed placement. Concurrent with reviewing the FAC-003 violation, FAC-008 and FAC-009 methodologies and implementation also were considered. Regarding Reliability Standard FAC-009, Texas Reliability Entity, Inc. (Texas RE) reviewed Kiowa's compliance with FAC-008 and FAC-009 during a 2008 audit (start date was November 16, 2008), which occurred approximately three months after the discovery of the FAC-003 violation in this NOP. Texas RE enforcement staff again reviewed information obtained during the 2008 audit in August 2010, in conjunction with

this Notice of Penalty and the questions asked by the Federal Energy Regulatory Commission (FERC), to confirm the 2008 audit findings regarding FAC-008 and FAC-009. Texas RE reviewed Kiowa's facility rating methodology and found no evidence of noncompliance with FAC-008 based on the evidence reviewed. Texas RE also reviewed ratings developed by Kiowa and submitted to ERCOT, and Texas RE determined that the ratings were consistent with the reviewed facility ratings methodology. The findings during the 2010 review were consistent with the 2008 audit findings.

Accordingly, NERC respectfully requests that the Commission accept this supplemental filing and issue an order consistent with the comments provided herein.

Respectfully submitted,

/s/ Rebecca J. Michael

Rebecca J. Michael

*Attorney for North American Electric  
Reliability Corporation*

cc: Official service list in Docket No. NP10-149-000