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UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION	**)** **)**	**Docket No. NP10-141-000**

RESPONSE OF THE NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION AND WESTERN ELECTRICITY COORDINATING COUNCIL TO THE COMMISSION'S AUGUST 5, 2010 LETTER ORDER REQUESTING DATA AND DOCUMENTS

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September 8, 2010

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Non-Public Attachments Included in Support of this Filing

1) LADWP's Internal Compliance Program Version 2.2, dated February 2010 (effective February 22, 2010)
2) LADWP's Internal Compliance Program Version 2.1, dated March 2009 (effective March 9, 2009)
3) LADWP's Internal Compliance Program Version 2.0, dated September 2008 (effective September 17, 2008)
4) LADWP's Internal Compliance Program Version 1.1, dated April 2008 (effective April 1, 2008)
5) LADWP's Internal Compliance Program Version 1.0, dated February 2008 (effective February 28, 2008)
6) LADWP's Sample Dissemination of its Internal Compliance Program, undated
7) LADWP's Organization Chart, dated October 2009
8) LADWP's Intradepartmental Correspondence, ICP Briefing Documents, various dates
9) LADWP's Intradepartmental Correspondence, ICP Bulletins and Announcements, various dates
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12) LADWP Screenshot – Reporting Possible Violations, undated
13) LADWP's Interpretation of PRC-005 Prior to April 2008, Response to Question 3
14) LADWP's Mitigation Plan Completion Form – PRC-005-1 R1 and R2 dated December 31, 2008
15) WECC's Verification of Completion, Reliability Standard Audit Worksheet, PRC-005-1 R1 and R2 dated January 6, 2009
16) Evidence Supporting Mitigation Plan Completion – LADWP's Relay Inventory Test Dates, dated May 29, 2008
17) Evidence Supporting Mitigation Plan Completion – LADWP's Generation, Switching, and Receiving Stations Equipment List, undated
18) LADWP's Field Test Procedure, dated October 27, 1981

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I. INTRODUCTION

The North American Electric Reliability Corporation ("NERC") and the Western Electricity Coordinating Council ("WECC") respectfully submit this Response to the Federal Energy Regulatory Commission's ("FERC" or the "Commission") August 5, 2010 Request for Data and Documents ("August 5 Data and Document Request") in the above captioned proceeding,[1] regarding the NERC July 6, 2010 Notice of Penalty filing regarding Los Angeles Department of Water and Power ("LADWP") within the WECC Region.

The Notice of Penalty for LADWP pertains to a two hundred twenty five-thousand dollar ($225,000) settlement agreed to by WECC and LADWP for thirteen violations of the following ten Reliability Standards CIP-001-1 R1, EOP-001-0 R1, EOP-001-0 R6, FAC-001-0 R2, INT-001-2 R1,INT-004-1 R2, INT-006-1 R1, IRO-STD-006-0 WR1, PER-002-0 R1, PRC-005-1 R1 and R2 (specifically R2.1) and two violations of PRC-STD-005-1 WR1. The August 5 Data and Document Request seeks additional data from NERC and WECC to assist FERC Staff with its analysis of the July 6, 2010 Notice of Penalty filing. This filing responds to the August 5 Data and Document Request seeking supplemental documentation to ensure that sufficient facts and evidence are provided in support of the Notice of Penalty filing regarding LADWP filed with the Commission on July 6, 2010. Where readily available, LADWP provided additional information to WECC in support of this response.

[1] *North American Electric Reliability Corporation*, 132 FERC ¶ 62,093 (2010) ("August 5 Data and Document Request").

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II. NOTICES AND COMMUNICATIONS

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

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*Persons to be included on the Commission's official service list. 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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III. RESPONSE TO THE AUGUST 5 ORDER

Information set forth in Non-Public Attachments 1 through 18 to the instant filing includes privileged and 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 Uniform Compliance Monitoring and Enforcement Program ("CMEP") Appendix 4C to the NERC Rules of Procedure. Specifically, the information pertains to proprietary or business design information, including a Regional Entity's investigative files, that is not publicly available. Accordingly, the information set forth in Non-Public Attachments 1 through 18 has been redacted from 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. NERC requests that the confidential, non-public information be provided special treatment in accordance with the above regulation.

> ***Footnote 27 of the Notice of Penalty filed in Docket No. NP10-141-000 on July 6, 2010 states that, "LADWP mistakenly believed that station devices were not subject to the Standard based on its understanding of PRC-005-1 as drafted in 2007, which did not expressly refer to 'station' devices within the scope of the terms 'generation Protection Systems' and 'transmission Protection Systems.'"***
>
> ***Request #1. Define the "station" devices to which footnote 27 refers.***

The devices to which LADWP is referring are Protection System devices such as bus differentials, breaker failure relays, and other Protections Systems not associated with transmission line protection systems. LADWP did not believe these protection systems were subject to PRC-005-1. "Station" devices (including, but not limited to, bus differentials and breaker failure relays) are included in the WECC and NERC definition of transmission Protection Systems which may affect the bulk electric system.

Request #2. Describe the basis for the statement that LADWP was mistaken about the scope of the Requirements.

According to LADWP:

WECC's interpretation has been that the Bulk Electric System definition is sufficiently broad to require inclusion of station protection systems in utility's protection system maintenance and testing program.

Also see LADWP's response to Request #3 below.

Request #3. State LADWP's justification for its interpretation that station devises were not subject to PRC-005-1. State whether NERC and WECC find this justification to be reasonable.

WECC understands LADWP relied on the title of the Standard (*i.e.*, transmission Protection System and generation Protection System) in interpreting which protection systems were to be included. LADWP interpreted "transmission Protection Systems" to mean only line Protection Systems such as distance relay protection, phase over current protection, and other protection systems which protect any transmission line element 100 kV or greater. LADWP provided a diagram portraying its pre-April 2008 interpretation of PRC-005-1 (Attachment 13).

According to LADWP:

LADWP believed its interpretation was reasonable, because in LADWP's system architecture, "stations" were distinct entities [WECC insert –facilities distinct] from generation units and transmission lines, often containing a variety of specialized equipment, such as bus and transformer bank protection systems. The text of Reliability Standard PRC-005-1 does not indicate that bus and transformer bank protection systems were included in the maintenance and testing program. After receiving notice from WECC in April 2008 that bus and bank protection systems should be included in the testing program under PRC-005-1, LADWP immediately conformed its understanding to that of WECC, and has diligently followed that interpretation since that time.

To understand LADWP's earlier interpretation of PRC-005-1, it may be helpful to consider the role of stations within LADWP's power system. In general, each end of a transmission line terminates in a station. LADWP has a variety of transmission line and station configurations, in part because LADWP remains an "end-to-end" vertically integrated public utility, owning most of its own generation, transmission and distribution assets. Generation facilities often

include stations located nearby (usually in close proximity or on the same property) to which the generated power is delivered. However, other stations may be large and complex systems in which multiple transmission lines from various sources (both inside LADWP and from other utilities) are combined. Wheeling of power, line conditioning, remote monitoring and stepping-up and stepping down of voltages may occur inside stations. Each transmission line has a set of breakers and other equipment associated with that particular line at its termination point inside the station.

After power is offloaded from the transmission line and its associated components from the point inside the station, the power is often transferred to a central bus or busses. (It should be noted that many of LADWP's stations have varying architectures). A bus itself is significantly different from a transmission line, with varying physical configurations and characteristics distinct from transmission lines. The bus then has its own associated breakers, monitors and other devices, and may connect to a step-up or step-down transformer bank to provide power to another bus inside the station. As an example, a 500-kV bus on one side of a station may be connected to a 230-kV bus on another side of a station through a transformer bank. Power on a bus which originally came in through one transmission line (or through a generator) may then be sent out through a different transmission line, or potentially to a distribution feeder system.

The attached Diagram (not an actual station diagram) illustrates the location of protection system devices on an idealized LADWP system. As can be seen, LADWP interpreted protection devices which protected transmission lines (as well as generation stations) to be covered by the standard, but devices which protected only busses inside stations or distribution-level feeders were not considered to be covered.

Although LADWP immediately conformed its understanding to that of WECC after April 2008, other utilities apparently continued to have doubts about the standard at least into 2009. *See, e.g.* "*Request for an Interpretation of a Reliability Standard,"* From Y-W Electric Association, Inc. and Tri-State Generation And Transmission Association, Inc. to the North American Electric Reliability Corporation (NERC), March 25, 2009 ("[Y-WEA and Tri-State] respectfully request an interpretation of the term "transmission Protection System" and specifically whether protection for a radially-connected transformer protection system energized from the BES is considered a transmission Protection System and is subject to these standards").

Notwithstanding LADWP's earlier interpretation, when LADWP was informed in April 2008 of WECC's interpretation of the scope of devices to be included in the standard, LADWP made substantial and immediate efforts to comply with the PRC-005-1 Reliability Standard. LADWP rapidly modified its existing mitigation plan to incorporate a testing and maintenance program for the station equipment. In addition, LADWP created a comprehensive inventory of station equipment

energized at 100-kV and above, on a station-by-station basis, and worked closely and cooperatively with WECC to arrive at a mutual understanding of the maintenance and testing program required by the Reliability Standard. LADWP's efforts in this regard allowed it to successfully complete its mitigation plan by December 2008, the same date that LADWP had for completion under its existing PRC-005-1 mitigation plan that had been filed in June 2007.

WECC and NERC response:

WECC and NERC did not find LADWP's justification to be reasonable. There is no station limitation in PRC-005 and therefore WECC and NERC found and are pursuing a violation.

Request #4. Provide all plans, procedures, protocols, or policies in place between June 18, 2007, and the April 2008 audit that provide for LADWP's regular maintenance and testing of Protection Systems located in stations.

From June 18, 2007 through April 2008, LADWP's regular maintenance and testing of Protection Systems did not include Protection Systems located in stations, therefore, other than LADWP's Field Test Procedure, discussed below, this filing does not include plans, procedures, protocols, or policies related to LADWP's stations prior to April 2008.

According to LADWP:

Protective relay maintenance during the period in question for station equipment was not on a fixed schedule but was performed based upon system availability and system conditions.

LADWP's practice both before and during the time period from June 18, 2007 to April 2008 was to follow industry standards in the maintenance and testing of station protective relays. These practices include manufacturer's recommendations, IEEE standards, utilities relay user group's guidelines, among others. LADWP notes that it uses multiple manufacturers' station protection relays, and thus uses a variety of maintenance and testing procedures on those relays. Attachment 18 includes for your reference a Field Test Procedure used for a sample Station Relay, Westinghouse HU type, commonly used on Transformer Banks of this class.

Furthermore, during the same period in question LADWP had several ongoing capital improvement/replacement programs that were replacing old electro-mechanical relays with new microprocessor-based relays, which included relays

for 500kV and 230/138kV transmission lines; a program to replace power transformer banks in substations which included the associated protective relays; and the substation automation project which also included replacing "breaker failure relays" in our substation panels.

Request #5. Paragraph 13 of the WECC-LADWP settlement agreement refers to "WECC's interpretation of the equipment to be included in the [PRC-005-1] Standard." Provide WECC's interpretation and describe LADWP's response.

Pursuant to WECC's interpretation, the following equipment is included in a PRC-005-1 Program, consistent with the NERC Glossary:

All Protection System devices installed with the intent of sensing a short circuit (fault) condition or other serious voltage, current or frequency anomaly in, on, or appurtenant to, a generator, transformer, reactor, capacitor, line, or bus of the BES and initiating action to isolate and protect (de-energize) the potentially impacted equipment, either directly or indirectly through an auxiliary tripping device (86 relay), including DC circuitry, associated communication systems, station batteries, and voltage and current sensing devices.

For transmission Protection Systems this includes, but is not necessarily limited to:

- Distance Relays
- Directional and Non-directional Ground Relays
- Directional and Non-directional Over Current Relays
- Transformer Differential Relays
- Bus Differential Relays
- Phase Balance Relays
- Breaker Failure Relays
- Transfer Tripping Relays (including Fiber Optic, Micro Wave, Carrier Current Relays, and Pilot Wire Relays)

For generation Protection Systems this includes, but is not necessarily limited to:

- Generator Fault Protection Functions Similar to Above
- Loss of Field Relays
- Stator Ground Relays
- Reverse Power Relays
- Volts-per-hertz Relays

- Negative Sequence Over Current Relays
- Generator Differential Relays
- Generator Bus Differential Relays
- Frequency Relays
- Out-of-step Relays
- Breaker Failure Relays

LADWP only included Protection Systems associated with any transmission lines at or above 100 KV.

Request #6. WECC's January 22, 2009 letter to Oscar Alvarez of LADWP mentions WECC's receipt on December 31, 2008, of LADWP's certification of completion and supporting evidence for LADWP's alleged violation of PRC-005-1 R1 and R2. Describe the "official review" mentioned in the letter and provide all documents that WECC used in the official review or that describe any results of the official review.

LADWP certified completion of its Mitigation Plan for PRC-005-1 R1 and R2 on December 31, 2008. To demonstrate completion of this Mitigation Plan, LADWP provided WECC with a copy of its revised *Transmission and Generation Maintenance and Testing Plan* (version 3, dated May 20, 2008) and a spreadsheet containing its relay inventory and the date it last tested each relay. On January 6, 2009, a WECC SME reviewed the Completed Mitigation Plan and supporting documentation and verified that LADWP's Maintenance and Testing Plan includes maintaining station relays subject to PRC-005-1 R2 and that all relays subject to this standard are now current and that LADWP documented each date last tested. Included with this response is a copy of LADWP's Completed Mitigation Plan (Attachment 14) with supporting documentation and evidence (Attachments 16 and 17) and a copy of the Reliability Standard Audit Worksheet ("RSAW") (Attachment 15) that WECC used to verify completion of the Mitigation Plan.

Footnote 30 of the Notice of Penalty filed in Docket No. NP10-141-000 on July 6, 2010 states that, "LADWP's internal compliance program (ICP) is documented and is disseminated throughout its operations. LADWP has ICP oversight staff that is supervised at a high level in the organization and has independent access to the CEO and/or board of directors. LADWP operates the ICP such that it is independent of staff responsible for compliance with the Reliability Standards. Additionally, LADWP has allocated sufficient resources to its ICP. The ICP has the support and participation of senior management. LADWP reviews and modifies its ICP regularly. LADWP's ICP includes formal, internal self-auditing for compliance with all Reliability Standards and includes disciplinary action for employees involved in violations of the Reliability Standards, when applicable."

Request #7.[2] Provide a copy of LADWP's ICP, including all amendments since June 18, 2007.

In a separate, non-public filing WECC, LADWP, and NERC are providing LADWP's ICP, including all amendments since June 18, 2007.

According to LADWP:

LADWP's ICP has been updated four times. Attachments #1-5 are all the different versions of the ICP that have been implemented. Section VII of the ICP (Attachment #1, page 13) describes the review and update procedures of the ICP. Appendix L of the ICP (Attachment #1, page 79) shows the Update History.

Some of the updates have been minor and were adopted and approved by the LADWP Compliance Officer.

Request #8. Describe how LADWP's ICP is disseminated throughout LADWP's operations. Include any changes in dissemination policy since June 18, 2007. Provide all relevant dissemination procedures.

LADWP Response:

As indicated in Section IX of the ICP (Attachment #1, page 15), LADWP's ICP is widely distributed to LADWP employees, as follows:

- It is posted on the LADWP Compliance Website (http://ladwpcpweb/) front page, thus making it accessible to all LADWP employees,

[2] Beginning on page 4 of the August 5 Data and Document Request, the questions are not sequentially numbered. Therefore, NERC and WECC renumbered the questions in sequential order beginning with Request #7.

- All managers and supervisors who have Reliability Standards responsibilities are required to access and review the Compliance Program on the LADWP Compliance Website,
- It is distributed to all LADWP employees via our LADWP internal employee announcements, and
- It is distributed to all employees that are part of the training program.

Attached are samples of the dissemination procedures implementation (Attachment #6).

Request #9. Describe the duties and responsibilities of ICP oversight staff since June 18, 2007. Include a discussion of the relationship between ICP oversight staff and staff responsible for compliance with the Reliability Standards.

According to LADWP:

The LADWP NERC Reliability Standards Compliance Officer (Compliance Officer - CO), with the assistance of core members of the ICP (Compliance Team), has been assigned to assess and enforce LADWP compliance with all reliability standards. This includes interacting with the Cyber Security Team to make sure that Critical Infrastructure Protection (CIP) standards are fully complied with. Section III of the ICP (Attachment #1, pages 7 and 8) describes in more detail the responsibilities of the Compliance Officer and the Compliance Team.

Figure 1 of the ICP (Attachment #1, page 10) shows the flow of information, and the direct but independent relationship between the Compliance Officer and LADWP managers and their Subject Matter Experts (SMEs). This framework is continuously used to investigate and validate compliance with the standards.

"Each manager is assigned a standard (or standards) along with the requirements and measures. The manager ensures that the requirements and measures are met, and that all documentation is available to validate compliance during an audit, or upon request by FERC, NERC and/or WECC." (Attachment #1, Section IV, page 9)

The Compliance Officer is responsible for making sure that any tasks assigned to managers are fully completed and implemented as appropriate. This general compliance process is more fully described in Appendix C of the ICP (Attachment #1, page 29).

The Compliance Officer and staff conduct bi-weekly meetings with various executives, managers, SMEs and the Los Angeles City Attorney's Office to discuss any compliance matters, which may include preparation for self-certifications, mitigation plans, providing updates on industry developments regarding standards, *etc*.

Request #10. Describe how the ICP oversight staff has been supervised since June 18, 2007. Provide all relevant organizational charts.

According to LADWP:

During the 2007-2008 fiscal year, the ICP oversight staff reported to Mr. Randy Howard, who was the Executive Assistant to the Chief Operating Officer for the Power System, and also led the Resource Development, Procurement & Regulatory Compliance Section (Attachment # 7 includes organizational chart).

During the initial period of the 2008-2009 fiscal year, the ICP oversight staff continued reporting to Mr. Randy Howard, who reported directly to the Senior Assistant General Manager for the Power System, and also led the Resource Planning, Procurement and Development Division (Attachment #7). Later in that fiscal year, the ICP oversight staff was moved to report directly to the Senior Assistant General Manager of the Power System (Attachment #7).

From the 2009-2010 fiscal year to the present, the ICP oversight staff reports to Mr. Randy Howard, who reports directly to the Senior Assistant General Manager for the Power System (Attachment #7).

Request #11. Describe ICP oversight staff's independent access to the CEO and/or board of directors since June 18, 2007. Include a description of how and when this access has been utilized since June 18, 2007.

According to LADWP:

As shown on Figure 1 of the ICP (Attachment #1, page 10), the Compliance Officer has direct access to the leading executives and governing authority of LADWP, which includes the Senior Assistant General Manager (AGM) - Power System (PS), the Chief Operating Officer, the General Manager (GM) and the LADWP Board.

The GM has been briefed on several occasions by the Senior AGM - PS, based on briefings prepared by the Compliance Officer (samples are provided in Attachment #8). The GM is also briefed verbally as necessary when important issues arise (*e.g.* settlement agreements, potential non-compliance issues, *etc*).

The Board has been briefed by the Compliance Group (Regulatory Group) via informational letters. The Board has also been briefed by the AGM- Power System, the Executive Assistant to the AGM-PS and /or the City Attorney's Office, based on documents prepared by the Compliance Officer (samples are provided in Attachment # 8). These briefings have included updates on Reliability Standards activities, and seeking guidance on settlement agreements in closed sessions with the Board. During these briefing activities, the Compliance Officer

and/or staff have been available to discuss matters with the Board directly, if necessary.

Request #12. Describe how ICP staff is independent of staff responsible for compliance with the Reliability Standards. Include a discussion of how its independence is reflected in the day-to-day functioning of the ICP oversight staff.

According to LADWP:

LADWP's ICP is managed and operated independently of the working groups that are directly responsible for complying with Reliability Standards. Section III of the ICP (Attachment #1, page 7) describes the several responsibilities of the Compliance Officer and his Compliance Team that reports directly to him. Furthermore, as shown on Figure 1 of the ICP (Attachment #1, Section IV, page 10) the Compliance Officer and the Compliance Officer's team have a direct but independent relationship with LADWP managers and SMEs. "This framework is continuously used to investigate and validate compliance with standards, determine tasks and resources necessary in order to achieve compliance, and make additional recommendations to promote resolution of compliance issues." (Attachment #1, Section IV, page 9)

As a way to proactively address present or future compliance matters, the Compliance Officer conducts bi-weekly meetings with various managers and executives (see Question #7).[3] Also, the Cyber Security Team conducts separate meeting to further monitor CIP standards matters Issues.

Furthermore, if the Compliance Officer is alerted by a manager, SME or through various self-monitoring mechanisms (gap analysis, self-audits, hot button, *etc.* – please see Question #16[4] for more information on these mechanisms) that a Reliability Standard may have been violated, the Appendix C process is triggered, which may culminate on a self-report, if it is determined that a potential violation has occurred.

As noted above, the ICP staff reports directly to Executive Management. The ICP's interactions with LADWP managers and SMEs allows the ICP to assess compliance independently of their operations, and to self-report to WECC once assessment has been completed.

In addition, LADWP's internal compliance website includes a "hot-button" available to any LADWP Power System employee to report (anonymously if preferred), any potential reliability standard violation, as described in Appendix E

[3] Due to a numbering error, LADWP Question #7 refers to Request #9.
[4] Due to a numbering error, LADWP Question #16 refers to Request #18.

of the ICP (Attachment #1, page 33). This reporting is sent directly to the LADWP Compliance Officer.

Request #13. State whether NERC and WECC find the independence of ICP staff to be effective in fostering meaningful and diligent oversight. Why or why not?

In general, an independent ICP staff does provide the benefit of fostering meaningful and diligent oversight because they can view compliance matters unfiltered by the varied business goals and resource limitations of the individual business units they are overseeing. Nevertheless, WECC and NERC recognize that 'one size does not necessarily fit all' in assessing an ICP. There are other factors that have an equal or greater impact on the success of an ICP – senior management involvement, resources and staffing of ICP, corporate culture, lines of reporting, among other things. In this particular case, WECC subject matter experts determined LADWP's "ICP is managed and operated fully independent of the work groups that are responsible for complying with Reliability Standards." The WECC subject matter expert's finding was strictly related to whether the ICP was managed and operated independent of those responsible for compliance with Reliability Standards, and did not address the effectiveness of such independence.

Request #14. Quantify the resources allocated to LADWP's ICP since June 18, 2007, and describe their uses.

According to LADWP:

The independent Compliance Team members are the NERC/WECC Reliability Standards Compliance Officer (Compliance Officer), and 4 compliance engineers reporting to the Compliance Officer (please see Attachment #1, page 8 for other LADWP staff assisting the Compliance Officer and member-staff). These engineers work with the Los Angeles City Attorney's Office to address compliance issues, and are fully independent from the Subject Matter Experts (please see Attachment #1, Figure 1, page 10).

The Compliance Officer has also established a process where outside consultants review the LADWP compliance documentation on all FERC-approved Reliability

Standards on an annual basis, or as otherwise necessary (Attachment #1, Section X, page 15).

In addition, the Compliance Team members work directly with the Cyber Security Compliance Team, which includes a Cyber Security CIP Manager, a Cyber Security Project Team Manager, 3 cyber security compliance engineers, and one consultant (please refer to Attachment #1, Figures 1 and 2 of the ICP for graphic interaction description). The Cyber Security Compliance Team has been tasked with leading the implementation of the eight Cyber Security Reliability Standards (CIP-002 through CIP-009) (Attachment #1, Section IV, page 9). They work with the NERC/WECC Reliability Standards Compliance Officer to make sure that compliance is maintained, and to self-report as may be necessary (Attachment #1, Section IV, page 12). Any potential CIP non-compliance issues are resolved between the Compliance Officer and the NERC Cyber Security CIP Manager.

Request #15. Explain the basis for NERC and WECC's determination that the resources allocated to LADWP's ICP are sufficient.

Question 7 of the CPAW asks "if the entity has sufficient resources (staff and budget) for its ICP." A WECC SME reviewed LADWP's documented ICP and interviewed LADWP personnel. The WECC SME determined that "the ICP is budgeted and fully staffed." The SME based this conclusion on an interview with LADWP personnel and the SME's professional judgment. NERC has no basis to disagree with WECC's assessment.

Request #16. Identify all LADWP senior management who have actively supported and participated in the ICP before or after June 18, 2007. Describe the extent of their support and participation.

According to LADWP:

The following LADWP senior management people have been involved in supporting and participating in ICP activities.

- H. David Nahai - former Chief Executive Officer and General Manager
- S. David Freeman – former General Manager
- Aram Benyamin – Senior Assistant General Manager (AGM) Power System (PS)
- Michael A. Coia – Assistant General Manager
- John C. Kokoska – Power Transmission & Distribution Division Manager
- Randy S. Howard - Executive Assistant to the AGM
- John Dennis – PS Planning and Development Division Manager

- Victor Ybarra – Steam Generation Assistant Division Head (Retired)
- Ali Morabbi – CIP Project Manager

These executives have shown their strong support and participation in the LADWP Compliance Program since 2007 by variously issuing General Manager's Bulletins, Power System-wide announcements, Intradepartmental Correspondence (samples included in Attachment # 9), and by participating in the meetings described below.

A Regulatory Update meeting is conducted on a weekly basis and has a line-item specifically designated to discuss the status of Reliability Standards compliance. The Executive Assistant to the AGM PS and the PS Planning and Development Manager attend this meeting on a regular basis, and they in turn brief the Senior AGM-PS and General Manager, as appropriate. This Regulatory Update meeting provides for an opportunity for senior management to provide guidance on how to resolve any outstanding compliance issues.

Moreover, Reliability Standards Compliance bi-weekly meetings are conducted in which various Power System executives below the GM level including managers, Subject Matter Experts, and the City Attorney's Office are briefed on current compliance matters, which may include preparation for self-certifications, mitigation plans, providing updates on industry developments regarding standards, and similar matters.

Also, as stated on Question #9[5] above, the GM, AGM–PS and /or the Executive Assistant to the AGM-PS also take an active role in briefing the LADWP Board on Reliability Standards activities.

Request #17. State the regularity with which LADWP reviews and modifies its ICP. Describe the procedure for review or modification. Provide all relevant review or modification procedures.

According to LADWP:

LADWP's ICP has an annual review cycle but may also be reviewed more frequently if necessary. As indicated in Question #5, Section VII of the ICP (Attachment #1, page 13) describes the review and update procedures of the ICP, and Appendix L of the ICP (Attachment #1, page 79) shows the Update History.

Minor changes to the ICP, including updating organizational and editorial changes, may be adopted and approved by the Compliance Officer. Major policy changes need to be reviewed and approved by the General Manager, or his designee (Attachment #1, Section III, page 13).[6]

[5] Due to a numbering error, LADWP Question #16 refers to Request #11.
[6] The information is in Attachment #1, Section VI, page 13, rather than Section III.

Attachment #10 includes LADWP ICP update announcements as distributed by the Senior Assistant General Manager – Power System.

Request #18. Describe LADWP's procedures for formal, internal self-auditing for compliance with Reliability Standards since June 18, 2007. Provide all relevant procedures.

According to LADWP:

LADWP's ICP provides for various ways to self-audit compliance with Reliability Standards:

- All LADWP employees directly or indirectly involved in the implementation of reliability standards receive ICP training. "During all training sessions (awareness, specialized and update), employees are reminded that they have an obligation to report any potential violations of mandatory Reliability Standards to the Compliance Officer" (Attachment #1, Section VIII, page 14). Based on this training, LADWP managers and their SMEs fully understand that they need to contact the Compliance Officer for any potential violations (please see Attachment # 11 for slides from a training presentation).
- The Compliance Team conducts gap-analysis as certain triggers occur (new or modification of standards from FERC, compliance monitoring mechanisms, 'hot button' input, or from LADWP staff input) (Attachment #1, Section XI, page 16).
- LADWP conducts spot check reviews "in major areas of reliability standards, such as Vegetation Management, Bulk Power System operations, System Protection and Cyber Security" (Attachment #1, Section X, page 15).
- "As a matter of course, comprehensive self-auditing activities of all FERC-approved standards are commenced generally in October of every year in order to assure that accurate and compliant information is readily available for WECC annual self-certification submittals." (Attachment #1, Section X, page 15).
- As previously mentioned, LADWP's internal compliance website includes a "hot-button" available to any LADWP Power System employee to report (anonymously if preferred), any possible reliability standard violation, as described in Appendix E of the ICP (Attachment #1, page 33). This reporting is sent directly to the LADWP Compliance Officer. Attachment # 12 shows the "hot button" feature on our compliance website.
- The Compliance Officer has established a process where outside consultants conduct compliance assessments on all FERC-approved standards documentation generally on an annual basis, or as otherwise required (Attachment #1, Section X, page 15).

Request #19. Describe all formal, internal self-auditing functions that took place after June 18, 2007. Include a discussion of all potential violations discovered through this process.

According to LADWP:

The formal, internal self-auditing functions in place have assisted LADWP to strengthen compliance documentation, and in the instances where there have been potential violations of reliability standards, they have been self-reported and fully mitigated. Below is a listing of the self-reported potential violations discovered thorough these processes:

- As a result of LADWP managers and their SMEs fully understanding their responsibility to self-report all potential violations, the Compliance Team was able to self-report potential violations with IRO-STD-006-1 R1 and under the Transmission Operations (TOP) Reliability Standards. These potential violations have been fully mitigated.

- As a result of our internal gap-analysis review, LADWP has self-reported and fully mitigated potential violations for EOP-001-0 R6, INT-004-1 R2, PRC-STD-005 WR1.

- As a result of our internal spot-check review, LADWP has self-reported and fully mitigated a potential violation under the Protection and Control (PRC) Reliability Standard.

- As a result of implementing the "hot-button" feature in our ICP, the Compliance Team was able to self-report a potential violation with INT-001-2 R1 and INT-006-1 R1, and to fully mitigate it.

- As a result of compliance assessments conducted by outside consultants, LADWP has self-reported and fully mitigated potential violations under the Critical Infrastructure Protection (CIP) Reliability Standards.

- In addition, LADWP self-reported approximately 10 other potential violations to WECC which WECC later indicated to LADWP would not be considered violations.

Request #20. State if and to what extent any LADWP employees have been disciplined for their involvement in the alleged violations of Reliability Standards described in Docket No. NP10-141-000.[sic]

According to LADWP:

LADWP has an existing disciplinary process that may be applied to any employee found to be intentionally violating reliability standards, and may be applied

according to City of Los Angeles Labor Relation Policies (Attachment #1, Section XIII, page 17 and Appendix K, pages 77 and 78). As of this time, LADWP has not used its disciplinary process with respect to Reliability Standards enforcement.

Request #21. Explain why the ICP was not effective in preventing the large number of alleged violations discussed in Docket No. NP10-141-000.

According to LADWP:

LADWP's believes that the number of alleged violations do not necessarily equate to a weak ICP. In fact, in LADWP's view, it is because of a strong ICP that self-reports have come into fruition. The policy of LADWP is to self-report a potential violation as soon as possible. In close cases, LADWP still self-reports.

It should be noted that the thirteen alleged violations are LADWP's first alleged violations of the Reliability Standards since the Standards became effective in June 2007. Although LADWP would of course strongly prefer to have received no alleged violations, a reviewing of publicly-available documents indicates that LADWP's number of alleged violations over the three year time period of the Standards' operation is not dramatically out of line for utilities in the Western Region.

For procedures and description regarding LADWP's policy on self-reports and investigations, please refer to Attachment #1 pages 16-17 and Appendix J, page 73. This policy is also consistent with FERC's guidance with good-faith self-reporting (Revised Policy Statement on Enforcement, PL08-3, P60 and P62, May 15, 2008).

Request #22. Explain if and why NERC and WECC believe that LADWP's ICP will be effective in preventing future violations of the Reliability Standards.

WECC notes LDWP's ICP document contains provisions that are designed to help prevent future violations of Reliability Standards. WECC determined LADWP's ICP includes a provision for self-auditing, whereby the compliance officer and a city attorney conduct annual internal audits for compliance with the Reliability Standards. Further, LADWP's ICP staff prepares weekly reports for the compliance officer. These reports are designed to identify possible violations or situations that could lead to possible violations. WECC believes an ICP's

effectiveness to prevent future violations arises from the implementation and execution of the ICP within an entity and the entity's use of an ICP to create a 'culture of compliance.'

While having an ICP can help avoid violations, given the multitude of facts that arise under Reliability Standard violations, NERC and WECC believe there is no basis for ensuring that any compliance program can prevent all future violations.

Request #23. Detail how and to what extent NERC and WECC factored the existence and characteristics of the ICP into the determination of the appropriate penalty amount.

Pursuant to the NERC Sanction Guidelines, the FERC Policy Statement on Enforcement, and the FERC Revised Policy Statement on Enforcement, WECC's practice is to give Registered Entities mitigating credit on proposed penalties in accordance with the perceived quality of the Registered Entity's compliance program. Thus, WECC did factor LADWP's ICP when determining the appropriate penalties and did apply mitigating credit towards the proposed penalties. WECC will also consider a Registered Entity's ICP when agreeing to a final penalty in settlement. In this case, WECC determined and NERC agreed the mitigating credit that LADWP's ICP earned was outweighed by other factors and considerations that were present in the case, including the seriousness of the violations.

Request #24. State whether NERC and WECC determined LADWP to have a culture of compliance between June 18, 2007, and the initiation of WECC's April 2008 compliance audit of LADWP.

Other than WECC's analysis of the ICP, neither WECC nor NERC made a separate determination of LADWP's culture of compliance. WECC did not have any information addressing, and thus did not make any determinations regarding, LADWP's culture of compliance for the period June 18, 2007 through the April 2008 Compliance Audit. WECC first

gained information about LADWP's compliance processes during the April 2008 on-site Compliance Audit of LADWP.

Request #25. State whether NERC and WECC determined LADWP to have a culture of compliance between the conclusion of the April 2008 audit and the signing of the settlement agreement in NP10-141-000.

In the course of processing the violation (*i.e.*, following issuance of a Notice of Alleged Violation through execution of the settlement agreement), neither WECC nor NERC evaluated LADWP's culture of compliance. WECC's determination of the penalty associated with NP10-141-000 is based on indirect means (through the CPAW and the ICP) at the time of the violations addressed in NP10-141-000. WECC notes that WECC conducted the on-site Compliance Audit in April 2008, that WECC evaluated LADWP's ICP on July 22, 2008, and that the Parties executed the settlement agreement on March 31, 2010. In the time between April 2008 and March 31, 2010, LADWP promptly submitted Self-Reports after discovering possible areas of non-compliance. Similarly, LADWP submitted Mitigation Plans swiftly remediating any misconduct. Finally, WECC conducted a Spot Check for the period from July 1, 2008 up to, and past, the signing of the Settlement Agreement. During the Spot Check, the Spot Check team did not find any areas of concern (separate and apart from any new possible violations) and determined that the LADWP subject matter experts demonstrated a commitment to compliance and the protection of the Bulk Electric System. The Spot Check team further determined that LADWP's current (as of April 2010) documentation was better organized and improved upon earlier versions of similar documentation.

Request #26. Explain how the nature and number of alleged violations identified in Docket No. NP10-141-000 factor into NERC's and WECC's determination of LADWP's culture of compliance both prior to and after the April 2008 audit.

WECC did consider the nature of the violations in determining the proposed penalties and did consider the nature and number of violations in agreeing to a payment amount in settlement. The nature and number of violations drove WECC's and NERC's determination as to the risk these violations presented for the bulk power system as well as the magnitude of the penalty. Specifically, WECC considered the scope of the PRC-005 violations (*i.e*., LADWP was behind in maintaining or testing 757 protective devices out of 1841 total devices (*i.e*., 41%)), and that the agreement included 13 violations, including three violations that posed a severe risk to the reliability of the BES.

Request #27. What did NERC and WECC determine to be the cause of LADWP's large number of alleged violations in multiple different Reliability Standard categories (13 violations in 7 different Reliability Standard categories).

Neither WECC nor NERC determined the underlying cause regarding the number of violations. Neither WECC nor NERC determined if the number of violations was a result of LADWP's culture of compliance.

PRIVILEGED AND CONFIDENTIAL INFORMATION HAS BEEN REMOVED FROM THIS PUBLIC VERSION

IV. CONCLUSION

The North American Electric Reliability Corporation and the Western Electricity Coordinating Council respectfully request that the Commission accept this filing as compliant with the August 5, 2010 Data and Document Request.

Respectfully submitted,

/s/ Rebecca J. Michael

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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document upon all parties listed on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 8th day of September, 2010.

/s/ Rebecca J. Michael
Rebecca J. Michael

Attorney for North American Electric Reliability Corporation