

POLICY: Policy related to the Québec electric power transmission system reliability standards compliance monitoring and enforcement

Policy number: 18

Responsibility for application: Chairman

Approved by: Jocelin Dumas

Approval date: November 23, 2021

To : DGPR

Revision date: November 23, 2021

Replaces the following policies: Policy related to the Québec electric power transmission system reliability standards compliance monitoring and enforcement, issued April 20, 2017

1. ROLE OF THE RÉGIE DE L'ÉNERGIE

The Régie de l'énergie (the Régie) is an economic regulation commission that exercises a range of administrative, regulatory and quasi-judiciary functions in the energy sector. It has the powers necessary to structure and monitor the energy sector in Quebec, under the terms of *An Act respecting the Régie de l'énergie* (The Act).

2. LEGAL FRAMEWORK APPLICABLE TO ELECTRIC POWER TRANSMISSION RELIABILITY STANDARDS

Division I, chapter VI.1 of the Act provides the rules regarding the adoption and monitoring of the enforcement of electric power transmission reliability standards.

3. FUNCTIONAL SEPARATION

The Régie exercises three types of functions and powers regarding electric power transmission reliability standards:

- 3.1 Regulatory functions and powers: notably the adoption of electric power transmission reliability standards;
- 3.2 Administrative functions and powers: notably the monitoring of compliance with reliability standards and the approval of the annual implementation plan;
- 3.3 Quasi-judicial functions and powers: rendering decisions, notably determining that a failure to comply (violation) with a reliability standard has occurred, imposing financial penalties and sanctions, ordering remedial action and mitigation plans.

To avoid having the combination of regulatory, administrative and quasi-judicial functions undermine the principles of independence and impartiality of the Régie, the latter has adopted the practice of functional separation.

To this effect, the adoption of the reliability standards is the responsibility of the *Direction générale adjointe, Réglementation électricité*, while electric power transmission reliability standards compliance monitoring and enforcement fall within the responsibility of the Department responsible of monitoring (the Department¹) and the enforcement of the reliability standards falls under the responsibility of the *Bureau chargé de l'application des normes de fiabilité des réseaux de transport d'électricité* (the Bureau²).

4. RULES OF PROCEDURE WITHIN THE FRAMEWORK OF COMPLIANCE MONITORING AND ENFORCEMENT OF ELECTRIC POWER TRANSMISSION RELIABILITY STANDARDS IN QUÉBEC

4.1 Scope of application

The rules of procedure described below apply to any compliance process of the Régie, in the following two situations:

- Work related to compliance monitoring and enforcement of Québec's reliability standards.

Notably, in monitoring cases, the Chairman of the Régie must:

- approve the annual implementation plan;
 - authorize compliance investigations as needed;
 - authorize spot checks as needed;
 - modify the confidential handling of information, data or a document produced or obtained during the implementation of the Québec Reliability Standards Compliance Monitoring and Enforcement Program (QCMEP).
- The Department undertakes the exam of a non-compliance, self-reported by the registered entity or reported by *Northeast Power Coordinating Council Inc.* (NPCC), in order to confirm or invalidate whether a non-compliance with a reliability standard has occurred.

¹ See the Régie's updated [organization chart](#) [in French only].

² The Chairman may designate a person who never works in the standards' adoption files to coordinate the activities of the Bureau.

4.2 Procedure

The methods of communication authorized between the Department and the Commissioners the *Direction des services juridiques de la Régie* (DSJ)³ and the other members of the *Direction générale, Planification et Réglementation* (DGPR) are as follows:

- The Department submits to the Chairman of the Régie for approval the various documents mentioned above in the Scope of application section;
- Before an enforcement case is filed into the *Système de dépôt électronique – Application des normes* (the SDE-Enforcement), the personnel of the Bureau may communicate with the Department for the purposes of the administrative coordination of the case. The personnel of the Bureau cannot communicate with the Department once the enforcement case has been filed;
- The Department may communicate with the Commissioner responsible for the processing of an enforcement case only as a participant in the case and in the presence of all other participants in the case;
- The Department may request and obtain legal opinions relating to the compliance monitoring and the enforcement of electric power transmission reliability standards from the DSJ;
- The Department may communicate with the personnel of the other departments, with the exception of the personnel of the Bureau.

The methods of communication between the Department, NPCC, and the registered entities subject to section 85.3 of the Act are as follows:

- The Department communicates with the registered entities through the secretariat-PSCAQ email account and the electronic filing system for monitoring;
- The Department communicates with NPCC through the secretariat-PSCAQ email account, through the electronic filing system for monitoring, by conference call, or in person;
- The registered entities communicate with NPCC by email, by conference call, or in person.

³ Here it designates the lawyers who have already been assigned to regulatory files for the adoption of standards.

5. RULES OF PROCEDURE FOR THE ENFORCEMENT OF ELECTRIC POWER TRANSMISSION RELIABILITY STANDARDS

5.1 Scope of application

In case of a failure to comply (violation) with a reliability standard, the Department submits to the Bureau, through the secretariat-PSCAQ email account:

- a settlement agreement and a recommendation on the imposition of sanctions, on corrective measures and on the implementation of a mitigation plan; or
- when no settlement is reached, an opinion on NPCC's recommendation made as a follow-up to discussions undertaken with the entity⁴.

The Bureau analyzes the opinion and the recommendations of the Department and files the case in the SDÉ-Enforcement when it is considered ready to proceed with.

The Secrétariat of the Régie notifies the Chairman of the filing for the purpose of designating the panel of Commissioners that will be responsible for reviewing the aforementioned file.

The Chairman designates a Commissioner or Commissioners (the Panel) to review the case, to determine, as needed, whether there is a violation of a reliability standard and, if necessary, to impose a financial penalty or sanction, to order performance of remedial actions or implementation of a mitigation plan.

The rules of procedure described below apply to any Régie case regarding the enforcement of reliability standards.

5.2 Procedure

5.2.1 Designation in an enforcement case

- The Chairman cannot intervene in enforcement files, nor designate him or her self to act in such cases.
- The Panel may request a legal opinion from the DSJ on general matters, on a point of law or regarding the operations of the Régie.
- A Commissioner who has adopted reliability standards may rule on reliability standards enforcement cases.

5.2.2 Hearing

- An entity subject to an application relating to a failure to comply (violation) with a reliability standard may request the Régie to hold a hearing to be heard.
- Hearings held by the Régie take place at its Montréal offices and are held behind closed doors.

⁴ Section 5.3 of the QCMEP.

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- The Bureau must call on counsel from outside the DSJ to represent it before the Régie.
- The Bureau may recommend to the Commissioner that the personnel of the Department be called to testify. Upon request of the Commissioner, the Department must make requested witnesses available for the hearing.

5.2.3 Decision-making process

- The Panel in an enforcement case may not communicate about or discuss the case with a member of the DGPR and, other than within the limits laid out in this document, a member of the DSJ.
- A written and substantiated decision must be signed by the Panel and uploaded by the Secrétariat into the SDÉ-Enforcement, where parties may take notice of it. The Secrétariat also saves the decision in a confidential file to which the Department will have access. The Department uploads this decision into the *Système de surveillance de la conformité au Québec* where NPCC may take notice of it.

6. COMING INTO FORCE

This policy comes into force on the day it is adopted by the management committee, thereby cancelling all other policies on this subject previously adopted by the Régie de l'énergie.

APPROVED BY:

(S) JOCELIN DUMAS

Jocelin Dumas, Chairman

November 23, 2021

Date