

**QUESTIONS FROM ÉLL AND ÉBMI DATED OCTOBER 2, 2009 REGARDING THE QUÉBEC
COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM (QCMEP)**

1.0 INTRODUCTION

It is indicated here that NPCC provides the Régie with recommendations regarding the enforcement of the Reliability Standards while “taking into account Québec’s legal and regulatory environment.”

- a) Please clarify whether NPCC comes under Québec’s statutory and judicial jurisdiction.

1.1 DEFINITIONS

Section 1.1.4: In the definition of confirmed violation, point 2):

- a) Why not refer to a final decision rendered by the court of last resort, instead of saying: “completed the appeal process within NERC”?

Section 1.1.22: Self-certification is defined here as “attestation (...) of compliance or non-compliance with Reliability Standards for which Self-Certification is required.”

- a) Why is reference made to non-compliance in connection with self-certification? (also see paragraph 3, where mention is made of self-certifications and self-reporting).

Section 1.1.6: With regard to compliance violation investigation.

- a) Please confirm that the on-site visit with interviews of the appropriate personnel has to do with the Registered Entity.

Section 1.1.19: The definition of remedial action refers to “an action (other than a penalty or sanction).”

- a) Please explain what is meant by “other than a penalty or sanction.”

Section 1.1.9: This section defines the mitigation plan. It states that “a Mitigation Plan is required whenever a Registered Entity violates a Reliability Standard as determined by (...) NPCC decision.”

- a) **Please clarify how this conforms to subsection 85.12 of the Act respecting the Régie de l'énergie (the "Act"), which provides that "the Régie may, on the conditions it sets, order an entity that fails to comply with a reliability standard to implement a compliance program within the time limit the Régie may specify."**

2.0 IDENTIFICATION OF ORGANIZATIONS RESPONSIBLE FOR COMPLYING WITH RELIABILITY STANDARDS

In the third paragraph, reference is made to an NPCC Compliance Registry and a NERC Compliance Registry.

- a) **Please indicate what information will be contained in each of these registries, if applicable.**
- b) **Please provide a copy of each registry.**
- c) **Will posting these registries on the Web respect the confidentiality requirements described in the Québec Compliance Monitoring and Enforcement Program or in the Québec Rules of Procedure for Compliance Services?**

3.0 COMPLIANCE MONITORING AND ENFORCEMENT PROCESSES

We refer you to the third paragraph, at the top of page 4.

- a) **Are we to understand that NPCC could submit a recommendation to the Régie without giving the Registered Entity at least 20 days to submit observations, pursuant to subsection 85.9 of the Act?**
- b) **Please clarify what "hearing before NERC" refers to.**
- c) **Is it the appeal process before NERC that is being referred to?**

3.1 COMPLIANCE AUDITS

3.1.1 COMPLIANCE AUDIT PROCESS STEPS

Page 5, fourth bullet.

- a) **Please indicate whether NPCC provides the Régie with preliminary observations concerning the Registered Entity in accordance with subsection 85.9 of the Act.**
- b) **Also, please explain what is meant by level 3 and 4 Alleged Violations.**

3.1.5 CONDUCT OF COMPLIANCE AUDITS

On page 6, second bullet, reference is made to anti-trust compliance guidelines.

- a) Please state the statute and specific provisions this refers to.**

3.1.6 COMPLIANCE AUDIT REPORTS

The first paragraph indicates that the draft report will be provided to the Registered Entity for comment.

- a) How much time does the Registered Entity have to provide its comments, supposedly to the team that carried out the audit?**

In the last paragraph of this section, reference is made to “critical energy infrastructure information.”

- a) Please clarify what is meant by this expression.**
- b) What happens if the Registered Entity considers the information confidential and NPCC disagrees?**

3.4 INVESTIGATIONS OF RELIABILITY STANDARD VIOLATIONS

It is stated here that Confirmed Violations resulting from a Compliance Violation Investigation will be made public.

- a) Are we to understand that this information is made public even before the Régie rules on non-compliance with the standards, in accordance with subsection 85.10?**

3.8 COMPLAINTS

- a) Please indicate under what circumstances NPCC might decide not to conduct the requested review.**
- b) If the complaint is submitted to NERC, please indicate how the Régie might decide to proceed itself with a review of the complaint.**

5.0 ENFORCEMENT ACTIONS

- a) **What might lead NPCC to decide to carry out enforcement actions over and above the sanctions prescribed in the *Sanction Guide*, in light of subsection 85.9 of the Act?**
- b) **Will enforcement actions be part of the *Sanction Guide*?**
- c) **In applying the sanctions provided for in the Guide and in order to ensure consistency, as indicated in section 5, do NERC and NPCC consider comparable situations in other jurisdictions?**

5.4 SETTLEMENT PROCESS

The first paragraph indicates that all settlement agreements must conform to NERC requirements.

- a) **What is meant by “NERC requirements”?**

5.5 NERC APPEAL PROCESS

- a) **What are the procedures for appealing to NERC?**
- b) **Is it necessary to consult the Rules of Procedure?**

6.3 TIMETABLE FOR COMPLETION OF MITIGATION PLANS

- a) **Please clarify the following sentence at the beginning of the first paragraph: “The Mitigation Plan shall be completed in time to have a reasonable potential to correct all of the violation(s) prior to the next applicable compliance reporting/assessment period after occurrence of the violation for which the Mitigation Plan is submitted.”**

6.4 SUBMISSION OF MITIGATION PLANS

- a) **Please clarify or explain the first sentence, which reads: “A Mitigation Plan may be submitted at any time,” in light of the time limits described in the rest of the section.**
- b) **Please indicate how the time limits listed in this section are consistent with subsection 85.12 of the Act, which indicates that the Régie may order implementation of a compliance program within the time limit the Régie may specify.**
- c) **Please clarify the last sentence of the paragraph: ”If the Registered Entity has not yet submitted a Mitigation Plan, any subsequent violations of the Reliability Standard identified by NPCC before it or NERC renders its decision will not be held in abeyance and will be considered as repeat violations of the Reliability Standard.”**

7.0 REMEDIAL ACTION ORDERS

The sixth paragraph states that failure on the part of the Registered Entity to comply with the order may result in further Remedial Action orders or significantly increased sanctions.

- a) **Please clarify whether in this case, the Registered Entity will be heard before further Remedial Action Orders or increased sanctions are imposed.**

Paragraph 7 reads: “The Registered Entity shall proceed with implementing the Remedial Action order even if it is contesting the Remedial Action order.”

- a) **Please explain this last sentence. Does this mean that the Registered Entity could be required to, say, take positive action, despite its intent to contest the proposed Remedial Action order?**