

QUESTIONS FROM ÉLL AND ÉBMI DATED OCTOBER 2, 2009 REGARDING THE QUÉBEC RULES OF PROCEDURE (QROP) FOR COMPLIANCE SERVICES

2.0 COMPLIANCE ENFORCEMENT

2.2.2 CONSISTENCY AMONG REGIONAL COMPLIANCE ENFORCEMENT PROGRAMS

- a) Is it NERC that sees to ensuring consistency among regional compliance enforcement programs?
- b) Please clarify the last sentence in the paragraph, which reads: “Differences in regional entity program methods, including determination (allegation, in Québec) of violations and penalty assessment (penalty recommendation, in Québec), shall be justified on a case-by-case basis and fully documented in each regional entity delegation agreement (taking into account Québec’s legal and regulatory environment, in Québec).”
- c) What are the differences that might exist among the various regional entity program methods?
- d) What is meant by regional entity delegation agreement?

2.2.5 RESPONSIBILITY TO ALLEGE NON-COMPLIANCE, AND RECOMMENDED PENALTIES, SANCTIONS AND REMEDIAL ACTION ORDERS

This paragraph indicates that NERC and NPCC determine whether there is compliance or violation in the case of allegations of non-compliance with a reliability standard. However, the Québec Compliance Monitoring and Enforcement Program gives us to understand that it is essentially NPCC that makes this determination.

- a) Please clarify.

2.2.6 DUE PROCESS

The last sentence reads: “Appeals beyond the NERC process will be heard by the Régie.”

- a) Please explain what is meant by “appeals beyond the NERC process.”
- b) Please provide practical examples.

2.3 REQUIRED ATTRIBUTES OF THE NPCC QUÉBEC COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM (NPCC’S QCMEP)

2.3.2 EXERCISING RESPONSIBILITIES

NPCC is to carry out the compliance monitoring and enforcement program while taking into account Québec’s legal and regulatory environment.

- a) Please indicate whether NPCC will apply Québec law.

2.3.3 DELEGATION OF RESPONSIBILITIES

This paragraph states that NPCC shall not sub-delegate its compliance enforcement program duties to entities or persons other than NPCC compliance enforcement program staff.

- a) Please confirm that NPCC cannot sub-delegate its duties to employees or representatives of Hydro-Québec.**

2.3.4 HEARINGS OF CONTESTED FINDINGS OR SANCTIONS

- a) Please explain the following sentence: “If a stakeholder body serves as the hearing body, no two industry sectors may control any decision and no single segment may veto any matter related to compliance after recusals.”**

PROGRAM RESOURCES

2.3.6.5 This paragraph states that contracting with independent consultants or others working for NPCC compliance enforcement program shall be permitted provided the individual has not received compensation from a Registered Entity being monitored for a period of at least the preceding six months.

- a) Please explain how the period of six months was arrived at.**
- b) Please explain why a longer period is not required.**

PROGRAM DESIGN

2.3.11.1 This paragraph refers to situations where electric power transmission system owners and operators have primary reliability responsibility.

- a) Please clarify what is meant by “primary reliability responsibility.”**
- b) Is Énergie La Lièvre considered an entity having primary reliability responsibility?**
- c) What is an entity requiring organizational certification?**

2.3.11.3

- a) Please confirm that this refers only to the standards that are applicable to the Registered Entity and not all Québec reliability standards.**

2.3.14 CONFIDENTIALITY OF COMPLIANCE AUDITS AND COMPLIANCE VIOLATION INVESTIGATIONS

In line one of this paragraph, it is stated that compliance violation investigations are public only if the Régie determines a need to conduct a public investigation.

- a) Please specify the criteria to be considered by the Régie in determining whether a public investigation could be conducted.

2.3.19 SETTLEMENT PROCESS

- a) Please indicate whether the settlements will be made public by the Régie.

2.3.20 NPCC HEARING PROCESS

This refers to the hearing conducted before the NPCC board or a “balanced committee established by the NPCC board and reporting, through NERC, to the Régie as the final adjudicator.”

- a) Please explain what is meant by “balanced committee.”
- b) Also, please indicate what is meant by “reporting, through NERC.”
- c) Please clarify the end-of-paragraph wording on appeals. A decision made by NPCC is appealed to NERC. What is meant by: “a determination of violation or penalty that has been directly adjudicated by the Régie shall be appealed with the Régie.”
- d) Are we to understand that there is an appeal process following a decision by the Régie, or does the paragraph refer rather to the possibility of requesting a review of a Régie decision under the Act?

2.8 REPORTING AND DISCLOSURE PROCESS

2.8.3.1

- a) Please indicate what is meant by “reasonable opportunity.”

2.8.3.2 This paragraph refers to information considered confidential.

- a) Please explain or clarify the order of precedence among the various rules that could be applicable: section 1500 of NERC’s Rules of Procedure; Régie decisions; and the applicable law in such matters.

3.2 APPEALS

This paragraph refers to appeals by Registered Entities of being placed on the compliance registry, which are to be resolved by the Régie.

- a) Is this intended to refer, rather, to the decision that the Régie will be called upon to make concerning the Registered Entities listed on the registries in case R-3699-2009?**