

**CLARIFICATIONS PROVIDED BY THE RÉGIE DE L'ÉNERGIE (LA RÉGIE) IN RESPONSE TO
QUESTIONS FROM RIO TINTO ALCAN (RTA) DATED SEPTEMBER 11, 2009 REGARDING
THE QUÉBEC RULES OF PROCEDURE (QROP) FOR COMPLIANCE SERVICES**

Definitions

- 1.1 What is the scope of the definition of “stakeholders”?¹ Does it include all the usual intervenors in cases heard by the Régie?**

Clarification: All parties connected to the electric power industry and subject to, among other things, the *Sanction Guide* are stakeholders. For details, refer to page 39 of the following document:

http://www.nerc.com/files/Appendix3A_StandardsDevelopmentProcess.pdf

- 1.2 What is the definition and application of “critical energy infrastructure” for electric power transmission systems in Québec?² Is this a concept that is used and applied in Québec’s electric energy sector?**

Clarification: Critical energy infrastructures for electric power transmission systems in Québec have been identified by the Reliability Coordinator in case R-3699-2009 (Exhibit B-1-HQCMÉ-2, Document 5, page 4).

2. Application of U.S. standards in Québec law

- 2.1 Is it possible to have access to “Attachment 2 to the NERC Compliance Monitoring and Enforcement Program document,” referred to in paragraph 2.3.4 of QROP?**

Clarification: This document is available at:

http://www.nerc.com/files/Appendix4C_Uniform_CMEP_06162009.pdf

- 2.2 How will NERC and NPCC ensure the consistency of the sanctions they recommend for Québec entities, based on the specific *Sanction Guide* for Québec?³ Will they use the sanctions imposed in other jurisdictions in the U.S. and Canada as precedents, or will they use only Québec precedents?**

Clarification: NPCC and NERC will achieve consistency in sanctions in North America by using all sanctions imposed in North America as precedents, while taking into account differences dictated by Québec’s legal and regulatory environment, as set out in the Québec *Sanction Guide* filed by the Reliability Coordinator in case R-3699-2009 (Exhibit B-1-HQCMÉ-2, Document 9). NPCC and NERC will make their recommendations to the Régie for a final determination taking into account the *Sanction Guide* submitted for approval in case R-3699-2009.

¹ See QROP paragraph 2.1.6.

² See QROP paragraph 2.2.7.3.

³ See QROP paragraph 2.7.1.

2.3 Is use of the *ERO Sanction Guidelines* and NERC's Rules of Procedure by NERC and NPCC consistent with application of a specific *Sanction Guide* for Québec?⁴ Is it possible to have access to the applicable version of the *ERO Sanction Guidelines*?

Clarification: The Québec *Sanction Guide* was submitted for approval to the Régie by the Reliability Coordinator in case R-3699-2009 (Exhibit B-1-HQCMÉ-2, Document 9). The NERC *Sanction Guide* is available at:

http://www.nerc.com/files/Appendix4B_Sanctions_Guidelines_Effective_20080115.pdf

2.4 NERC's Rules of Procedure are referred to frequently.⁵ Will these Rules of Procedure be approved by the Régie, as they are by FERC?

Clarification: The terms of the mandates that will be assigned to NPCC and NERC under the Compliance Monitoring and Enforcement Program provide for NERC's Rules of Procedure to be used in carrying out monitoring and investigation activities. These Rules have been approved by FERC.

However, as stipulated in articles 2.2.3, 2.2.7.3 and 2.3.10, among others, the final determination on issues of reporting requirements and confidentiality will be made by the Régie.

As well, as provided by subsection 85.10 of the Act, the Régie makes the final decision on Alleged Violations and applicable sanctions.

2.5 Paragraph 2.3.10.2 mentions NERC procedures in connection with the NPCC reporting of collected information to the Régie and NERC. What procedures does this refer to?

Clarification: This refers to communication procedures agreed to by NERC and NPCC for the purposes of the performance of the compliance monitoring and enforcement responsibilities entrusted to them by the Régie.

3. Forums

3.1 What entities or organisations would be invited to forums conducted by NERC for regional entity compliance managers?⁶ Would these forums be open to the Régie, to the Registered Entities, to stakeholders?

Clarification: This is part of a process agreed to by NERC, NPCC and the Régie that has no impact on the entities subject to the reliability standards. It is a NERC activity that involves only the compliance managers of the eight regional entities, including NPCC.

4. Site of operations

4.1 Will NERC carry out all QROP-related functions in Québec?

Clarification: NERC provides services to the Régie from its offices in Princeton, New Jersey. However, as stipulated by article 3.9 of the QCMEP, any Registered Entity may

⁴ See QROP paragraph 2.7.2.

⁵ For example, see QROP paragraph 2.2.7.3.

⁶ See QROP paragraph 2.2.2.3.

exercise its right to be heard and to put forward its point of view in Québec by requesting that meetings and hearings be held in Québec.

4.2 Where will the decision-making agency's office be located? Will it always be in Québec, even for the purpose of exchanging written documents?

Clarification: The decision-making agency is the Régie. The Registered Entities will have access to documents filed with the Régie that concern them directly.

5. Language

5.1 What language will NERC use to communicate? Will it be possible to communicate with NERC in French at all times?

Clarification: It is provided that it will be possible to conduct communications with NERC and NPCC in French.

5.2 Are all NERC and NPCC documents, including the appeals process⁷ and NERC's Rules of Procedure,⁸ available in French?⁹

Clarification: The appeals process is described in articles 2.9 to 2.11 of the QROP. The full NERC Rules of Procedure are available in English only at:

http://www.nerc.com/files/NERC_Rules_of_Procedure_EFFECTIVE_20090616.pdf

These questions also apply to NERC and NPCC compliance audits, compliance and certification committees, hearing bodies and appeal procedures, and to the *ERO Sanction Guidelines*.

Clarification: The QROP, QCMEP and Québec *Sanction Guide* describe in French the procedures relevant to the entities subject to the compliance monitoring process. NERC and NPCC reports are to be available in French.

6. Confidentiality

6.1 While it appears clear that information collected in connection with investigations and violations is confidential,¹⁰ do the rules of confidentiality also apply to the nature of the complaint and the source of the complaint?

Clarification: Article 3.8.2 of the QCMEP, "Anonymous Complainant Notification Procedure," provides that "neither NERC nor the NPCC shall disclose the identity of any person or entity reporting Alleged Violations to NERC or to a NPCC that requests that his/her/its identity not be revealed."

An Alleged Violation contained in an audit report or elsewhere remains confidential and will not be made public until there has been a final determination by the Régie.

⁷ See QROP paragraph 2.2.6.

⁸ There is frequent reference to NERC's Rules of Procedures; see for example paragraph 2.2.7.3.

⁹ See paragraphs 2.3.10 and 2.3.11.

¹⁰ See paragraphs 2.8.3 ff.

7. Documents

7.1 Where will confidential files about the Registered Entities, including compliance reports, be kept and stored? Will they remain in Québec or will they be in a foreign jurisdiction at any point?¹¹

Clarification: Retention requirements are stipulated in the QCMEP, notably in article 9.2.

7.2 What access will the Registered Entities have to the documents that NERC and NPCC produce and submit to the Régie in connection with QROP implementation?¹²

Clarification: In connection with QROP implementation, Registered Entities will have access to documents produced by NERC and NPCC and submitted to the Régie, which concern them directly, at the offices of the Régie.

7.3 Will the documents and information collected by NERC and NPCC remain in Québec?¹³

Clarification: Retention requirements are stipulated in the QCMEP, notably in article 9.2.

¹¹ Refer to QROP paragraph 2.1.9, which states that NERC will maintain a record of all reports related to reliability standards.

¹² For example, QROP paragraph 2.2.1.3 stipulates that NERC evaluations of the Compliance Monitoring and Enforcement program shall be provided to the Régie.

¹³ See for example QROP paragraph 2.2.3.