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NEB/ONE

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May 20, 2011

Electricity Reliability  
Attention: Anne-Marie Erickson  
Secretary of the Board  
National Energy Board  
444 - 7th Avenue S.W.  
Calgary, Alberta, T2P 0X8

Dear Ms. Erickson:

**RE: National Energy Board (NEB)  
British Columbia Hydro and Power Authority (BC Hydro)  
Comments on Draft Mandatory Electricity Reliability Standards  
File OF-Fac-ElecGen-Rel-IPL 04**

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BC Hydro is writing to the NEB to provide comments in response to the NEB's notice of draft provisions for order for certain International Power Lines (IPLs) under the jurisdiction of the NEB (**the Draft Order**), dated February 23, 2011.

BC Hydro holds authorizations, in the form of IPL certificates, for NEB-regulated IPLs. Three of these authorizations were identified in the Draft Order and are with respect to IPLs BC Hydro owns and operates for exporting electricity to the United States (**U.S.**) – i.e., lines 5L51, 5L52 and 2L112.

The Draft Order includes provisions that allow for the holder of an authorization to adopt, subject to the NEB's approval, existing standards established by a standards development authority that encompass the 12 specific standards requirements in the Draft Order. These 12 requirements correspond with the topical areas that form the basis of the current Mandatory Reliability Standards (**MRS**) that have been developed by the North American Electric Reliability Corporation (**NERC**).

BC Hydro respectfully urges the NEB to have substantive regard for the regulatory framework established in British Columbia (**B.C.**) which, as described briefly below, has to the greatest extent possible aligned reliability requirements for the bulk electric system in B.C. to the standards developed by NERC and Western Electric Coordinating Council (**WECC**). There is no MRS regulatory or operational gap with respect to the BC Hydro system. Since standards cannot be applied on a line specific basis, BC Hydro operates its system, and the British Columbia Utilities Commission (**BCUC**) regulates the reliability standards regime in B.C. for the entire bulk electric system, with no distinction for the IPL portion of the system.

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Accordingly, BC Hydro strongly encourages the NEB, subject to the NEB being satisfied that the reliability regime in place in B.C. is sufficient to address its standards requirements, to defer regulation of the IPLs that are regulated by the BCUC to the regulatory framework already established in B.C. Alternatively, if the NEB believes it is to have a more active regulatory role over the reliability of the IPLs, BC Hydro strongly encourages the NEB to harmonize its oversight with the existing reliability regime in effect in B.C. in order to provide efficiencies and avoid duplicative activities associated with adopting and complying with reliability standards requirements.

Before commenting specifically on the Draft Order, BC Hydro wishes to provide an overview of the robust MRS framework in B.C. Pursuant to section 125.2 of the *Utilities Commission Act (UCA)*, the BCUC has "the exclusive jurisdiction within B.C. to determine whether a reliability standard...should be adopted in British Columbia". In order to carry out this mandate, the UCA requires BC Hydro to review, assess the suitability of and make recommendations to the BCUC for the adoption in B.C. of reliability standards developed by NERC. BC Hydro completes this process within one year following the standards becoming effective in U.S. for entities under the jurisdiction of the Federal Energy Regulatory Commission (FERC). If the BCUC determines that the MRS assessed by BC Hydro are required to maintain or achieve consistency between B.C. and other jurisdictions that have adopted the MRS, these same standards must be adopted in B.C. in accordance with section 125.2(6) of the UCA. The BCUC cannot amend a reliability standard that has been assessed by BC Hydro nor can it, without the approval of the provincial government, set a standard or rule pertaining to a matter addressed by a reliability standard that has been assessed.

To date, all MRS approved by FERC and effective in the U.S. prior to November 30, 2009 have been adopted in B.C. BC Hydro has recommended that standards approved by FERC and effective in the U.S. between December 1, 2009 and November 30, 2010 be adopted in B.C. by the BCUC and BC Hydro is waiting for the BCUC order to that effect. As a result, B.C.'s MRS framework is aligned with the MRS developed by NERC and effective in the U.S.

Further, the MRS apply generally to owners, operators and users of the "bulk power system" in B.C. The "bulk power system" is defined in the Mandatory Reliability Standards Regulation to the UCA as including, among other facilities, "interconnections with neighbouring systems". BC Hydro has interpreted this to include the IPLs.

The MRS framework in B.C. is administered by WECC on behalf of the BCUC in accordance with the terms of an administration agreement between the BCUC and WECC. However, responsibility for determining and enforcing compliance violations has not been delegated to WECC and remains with the BCUC.

The BCUC has established a comprehensive compliance monitoring program in respect of the MRS providing for, among other requirements, periodic audits to verify compliance and the submission of mitigation plans by entities for becoming compliant with the reliability standards

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that are in effect in B.C. Procedures and processes regarding the "Rules of Procedure for Reliability Standards in British Columbia" are attached as Appendix A to this letter and a description of the "Compliance Monitoring Program" associated with these rules of procedure is also attached as Appendix B. Documents relating to the mandatory reliability standards for the bulk electrical system in B.C. are available on the BCUC website at: <http://www.bcuc.com/mrs.aspx>.

With that context, BC Hydro respectfully submits the following specific comments on the Draft Order:

1. The intention of the Draft Order duplicates that of section 125.2(6) of the UCA: to maintain or achieve consistency with other jurisdictions that have adopted MRS. Since the intentions behind the UCA provisions and the Draft Order are consistent, deferring MRS regulation to the BCUC for those IPLs in B.C. that are subject to the B.C. regulatory framework would achieve the NEB's stated goals of ensuring appropriate reliability compliance in the operation of those IPLs.
2. The Draft Order should clearly articulate that upon demonstrating to the NEB that B.C. has adopted NERC MRS that generally meet the NEB's requirements through B.C.'s MRS framework, BC Hydro would be fully excepted from further NEB regulatory oversight with respect to the IPL portion of its system. Specifically, if the NEB determines that a certificate holder is already subject to a robust MRS framework, BC Hydro would expect that no further reporting to and/or approvals from the NEB would be required. To require otherwise would place an undue regulatory burden on those certificate holders, such as BC Hydro, inasmuch as they are already required to provide evidence to provincial regulators regarding their compliance with the reliability standards applicable in their respective jurisdictions. Further, BC Hydro questions the practicality of preparing reporting for only the IPL portion of the system.
3. The Draft Order provides the NEB with oversight over the MRS framework in B.C. through its ability to accept or reject B.C.'s "compliance plan". Since the B.C. MRS framework is dictated through legislation, BC Hydro would mainly be submitting the BCUC's compliance program documents and it is unclear what additional documentation NEB would like to receive. Further, allowing the NEB to approve the materials submitted is problematic since the program is not structured by BC Hydro. BC Hydro suggests that this instead be structured as an "acceptance" requirement as opposed to an "approval" from NEB.
4. The reliance on the NERC / NEB Memorandum of Understanding which provides the NEB with a direct link to compliance reporting through NERC is not appropriate in B.C. since NERC is not the body for electric reliability standards implementation in B.C. and BC Hydro does not file compliance documentation with NERC. Compliance documentation is filed with the BCUC and/or WECC.

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5. The Draft Order provides an audit right to the NEB. BC Hydro encourages the NEB to accept that audits undertaken by the WECC on behalf of the BCUC to verify BC Hydro's compliance with MRS should satisfy the NEB's requirement to verify compliance and no additional audit right is needed.
6. Only MRS that correspond to topical areas that are applicable to IPL operations should be included in the NEB mandatory electricity reliability standards order.
7. Any MRS compliance documentation received by the NEB from any source should be deemed to be confidential under section 1.6.1 of the NEB Act. BC Hydro does not think this determination should be made on a case by case basis.
8. Finally, the Draft Order requires the certificate holder to maintain the power line to be reliable and secure and "compatible with the power system to which the power line is connected". This requirement needs to be clarified – i.e., that presumably this only applies to IPLs interconnected to U.S. systems and to further define what it means to be "compatible" (recognizing regional differences in standards).

For further information, please contact Sandra Jones at 604-623-4315 or by e-mail at [bchydroregulatorygroup@bchydro.com](mailto:bchydroregulatorygroup@bchydro.com).

Yours sincerely,

  
for Janet Fraser  
Chief Regulatory Officer

ch/ma

Enclosures (2)

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