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May 30, 2013

Ms. Erica Hamilton
Commission Secretary
British Columbia Utilities Commission
Sixth Floor – 900 Howe Street
Vancouver, BC V6Z 2N3

Dear Ms. Hamilton:

**RE: Project No. 3698691
British Columbia Utilities Commission (BCUC)
British Columbia Hydro and Power Authority (BC Hydro)
BCUC Inquiry into the BC Mandatory Reliability Standards (MRS) Program
(the BC MRS Program)
BC Hydro Final Written Submission**

BC Hydro writes in accordance with BCUC Order No. R-75-12 (the **Inquiry**) to provide its final submissions with respect to BCUC Straw-Dog #1 – Proposed Changes for the BC *Rules of Procedure*¹ to Include a Possible Exception Process; BCUC Straw-Dog #2 – A Proposed BC-Specific Process for Assessing Severity and Risk of Violations and Determination of Penalties; and BCUC Straw-Dog #3 – Technical Advisory Committee (**TAC**) Terms of Reference (collectively, the **BCUC Straw-Dogs**).²

1 Introduction

BC Hydro values the Inquiry process and the time and effort BCUC Staff and all interested parties have spent engaging on the important issues contained in the BCUC Straw-Dogs. As a result of this process, BC Hydro anticipates that there will be more clarity and efficiency with respect to the BC MRS Program which will ultimately assist in achieving a more reliable bulk power system in British Columbia (**BC**).

a) Issuance of Revised BC Rules of Procedure by the BCUC

It is an express policy objective of the Government of BC to ensure that the province remains consistent with North American transmission reliability standards.³ For this reason, and as a result of significant changes to the definition of Bulk Electric System (**BES** and where referring to the new definition, **BES Definition**) and revisions to the North American Electric Reliability Corporation's (**NERC**) Rules of Procedure in the United

¹ Rules of Procedure for Reliability Standards in BC.

² This submission uses and relies on the same capitalized and defined terms as in BC Hydro's January 31, 2013 submission and the BCUC Straw-Dogs.

³ The Government of British Columbia 2007 "BC Energy Plan: A Vision for Clean Energy Leadership", Policy Action No. 14.

States (**US**), BC must correspondingly consider and issue changes to its Rules of Procedure to ensure consistency and alignment between jurisdictions.

However, BC Hydro also recognizes the importance of identifying areas where BC may differ from other jurisdictions and as such, “made-in-BC” solutions will be appropriate. BC Hydro is encouraged by the BCUC recognition of this issue but wants to emphasize the importance of balancing flexibility in the BC MRS Program with clear direction and guidelines so that entities can ensure compliance. The BC MRS Program is focused on “ensuring system reliability, minimizing risk and ensuring compliance with the statute.”⁴ It is therefore important that affected entities are provided with the opportunity to comment on changes to the BC MRS Program, which the BCUC has supported to date.

In this respect, BC Hydro notes the effort BCUC Staff took to prepare the BCUC Straw-Dog drafts of proposed changes to the BC Rules of Procedure for all parties to comment on. At the conclusion of this inquiry, BC Hydro looks forward to reviewing the Commission Report⁵, however, BC Hydro also expects that the BCUC will issue proposed draft BC Rules of Procedure. For procedural fairness reasons and to ensure a fair result, all parties should be provided with an opportunity to comment on the revised BC Rules of Procedure.

Recommendation 1

BC Hydro recommends that the BCUC issue the revised BC Rules of Procedure that incorporate the changes from the BCUC Straw-Dogs for interested parties to comment on.

b) Future Changes to the BC MRS Program and/or BC Rules of Procedure

Once the changes to the BC Rules of Procedure are implemented and operational, it is likely that changes to the BC MRS Program, BES Definition and/or BC Rules of Procedure will be required in the future to ensure consistency with industry changes. Going forward, BC Hydro believes that the BCUC will need to develop a streamlined process for making changes to its Rules of Procedure.

In the US, NERC posts draft revisions to its Rules of Procedure for public review and comment, which BC Hydro understands to be an efficient and responsive process. An example of this practice by NERC was during its introduction of the Rules of Procedure modifications to support the BES Exception Request process in the US.⁶ NERC posted the Rules of Procedure modifications for a 45-day comment period during which time interested parties and stakeholders reviewed the proposed modifications and provided

⁴ Exhibit A-4, Letter dated November 19, 2012 – Response to FortisBC Inc. Comments regarding Workshop Agenda.

⁵ As referenced in Order R-72-12, Appendix B at p. 3

⁶ In September/October 2011.

their comments to NERC. NERC then reviewed the comments submitted during the formal comment period to determine whether or not to make additional changes. This process strikes BC Hydro as a fair and reasonable method of proposing Rules of Procedure changes and ensuring transparency in the process. It is also an efficient method of responding to stakeholder concerns.

BC Hydro therefore recommends that for any future changes to the BC Rules of Procedure, BES Definition or BC MRS Program more generally, the BCUC follow a similar process to that of NERC, and post any proposed changes and/or draft revised BC Rules of Procedure for public review and comment. This will assist in ensuring a more streamlined, efficient and transparent process.

Recommendation 2

BC Hydro recommends that for any future changes to the BC MRS Program, or supporting documents, the BCUC post any proposed changes for public review and comment before making the changes final.

2 Specific Straw-Dog Comments

a) Exhibit A-7, BCUC Straw-Dog #1

Changes to the Mandatory Reliability Standards Regulation

BC Hydro remains supportive of the recommendation to government to adopt the new NERC BES Definition⁷ and agrees that it should be incorporated into the BC MRS Program. This will require changes to the *BC Mandatory Reliability Standards Regulation*⁸ (the ***MRS Regulation***) which we outline in the section below.

The New NERC BES Definition

The first change that will be required to the *MRS Regulation* will be the insertion of the new NERC BES Definition. This amendment to the *MRS Regulation* is, as suggested by AMPC⁹, relatively straight-forward and easily accomplished. However, BC Hydro shares AMPC's concern that the potential for being out of step with the NERC definition is a real possibility unless the new NERC BES Definition is incorporated by reference into the *MRS Regulation*, subject to variation by order of the Lieutenant Governor in Council.¹⁰ BC Hydro therefore suggests that the new NERC BES Definition be contained in the BC Rules of Procedure. Incorporating the definition into the *MRS Regulation* by reference only will eliminate the onerous requirement of having to potentially amend the *MRS Regulation*

⁷ As defined in Appendix A of BCUC Straw-Dog #1.

⁸ BC Reg 32/2009, Ministerial Order M039.

⁹ Exhibit C14-9, AMPC Response to Information Request No. 1 of BCUC to Straw Dog #1, dated April 26, 2013.

¹⁰ *Ibid.*

with each future modification. Additionally, providing a mechanism to allow the BCUC to develop the BES Definition in alignment with NERC's definition will ensure consistency with the rest of North America.

Recommendation 3

BC Hydro recommends that the BCUC propose that the MRS Regulation be amended to incorporate by reference the new NERC BES Definition.

Recommendation 4

BC Hydro recommends that the new NERC BES Definition be contained in the BC Rules of Procedure.

Other Definitional Changes to the MRS Regulation

Further to this point and on a broader level, BC Hydro recommends that the only definitions that are necessary to be prescribed in the *MRS Regulation* are those of "Act", "bulk electric system" "bulk power system" and "element". BC Hydro suggests that the definitions of "direct user", "distributor", and "generator" will no longer be required. Similar to AMPC, BC Hydro therefore recommends the removal of these defined terms from the *MRS Regulation* to reduce any confusion in the application of the new NERC BES Definition.

As changes to the BC MRS Program and/or BC Rules of Procedure are contemplated in the future, the *MRS Regulation* may require further definitional changes. If the Lieutenant Governor in Council is required to amend the *MRS Regulation* with each modification, it will become overly complicated and inefficient.

Recommendation 5

BC Hydro recommends that the only definitions necessary in the MRS Regulation are "Act", "bulk electric system", "bulk power system" and "element".

Recommendation 6

BC Hydro recommends the removal of the defined terms "direct user", "distributor" and "generator" from the MRS Regulation.

BC Hydro notes that BCUC Staff also expect to recommend changes to the *MRS Regulation* to clarify that the terms "bulk power system" and "BES" be used interchangeably. BC Hydro does not object to this recommendation if it provides industry with greater clarity and reduces confusion in BC.

Recommendation 7

BC Hydro supports the recommendation that the BCUC propose that the MRS Regulation be amended to clarify that the terms bulk power system and BES may be used interchangeably.

To illustrate the relative ease with which changes to the *MRS Regulation* can be accomplished, BC Hydro has attached a draft amended *MRS Regulation* to these submissions as Appendix “A”. This draft amended *MRS Regulation* identifies the revisions and language BC Hydro recommends the BCUC propose to government.

Part A, Section 1.0 of Exhibit A-7: Transition to the New BES Definition

BC Hydro reiterates its expectation that, as described in Part A, Section 1.0 of Exhibit A-7, regardless of the date the new BES Definition becomes effective in BC, there will be a 24-month period before reliability standards compliance would be required with respect to Elements (as defined in the NERC Glossary) that are newly-included in the BES as a result of the new definition. However, BC Hydro also expects that applications to exclude previously-included Elements (i.e., de-registration) can be made any time after the effective date of the BES Definition in BC and will be processed quickly and efficiently to ensure parties are not unduly burdened by requirements that no longer apply to them.

Recommendation 8

BC Hydro recommends that the BCUC implement a 24-month transitional period for newly-included Elements that will be captured by the new BES Definition.

Recommendation 9

Applications to exclude previously-included Elements should be able to be made any time after the effective date of the BES Definition in BC and should be processed quickly.

BC Hydro agrees with the comments of AMPC¹¹ that, as proposed, the “de-registration process” described in BCUC Straw-Dog #1 seems overly cumbersome and onerous. For clarity, by “de-registration process” BC Hydro is referring to the process once the new BES Definition is effective in BC, where a Responsible Entity concludes that as a result of the new BES Definition all of the Elements related to a Responsible Entity function would be excluded from the BES and that its current functional registration profile would change as a result.

As such, BC Hydro supports the adoption of a more streamlined process, such as that proposed by AMPC, wherein an Entity is able to de-register upon its assessment that as a result of the new BES Definition they are no longer required to be registered as a

¹¹ Exhibit C14-3, AMPC Comments on BCUC Straw-Dogs, at p. 6, dated January 31, 2013.

Registered Entity function. Under AMPC's proposal, de-registration would be subject to a 30-day notice period whereby the Administrator could object to the Entity's application, or, bring an application to have the Entity remain included. BC Hydro recommends the addition of one further step in AMPC's streamlined proposal, the provision of notice to the Balancing Authority (**BA**) by an Entity wishing to de-register. This streamlined process strikes BC Hydro as more efficient than the one currently proposed in BCUC Straw-Dog #1.

Recommendation 10

BC Hydro recommends that the BCUC implement a more streamlined de-registration process for each Entity where, as a result of the new BES Definition, some or all of that Entity's Elements would be excluded from the BES and the Responsible Entity's functional registration profile would change as a result.

Part B, Exhibit A-7: Proposed BC Exception Process

In principle, BC Hydro is supportive of the adoption of a BC Exception Process whereby Entities may request that specific Elements that would be classified as either part/not part of the BES as a result of the new definition could be included or excluded after further consideration.

Where BC Hydro differs from the proposal as described in BCUC Straw-Dog #1, is with respect to the process an Exception Request would follow. Specifically, BC Hydro notes that as drafted, the review and consideration of Exception Requests does not provide other parties with adequate notice and an opportunity to be heard nor does it allow the Applicant to comment on any recommendations provided to the BCUC or challenge an Order by the BCUC approving or disapproving its Exception Request. In this regard, and in an effort to address the concerns identified above, in its January 31, 2013 submission¹² BC Hydro recommended a modified process for review and consideration of Exception Requests with the following essential components:

- An Applicant submits its Exception Request
- BCUC Staff review the Exception Request for completeness and confirm that it is sufficient for consideration
- Exception Requests that have been accepted for consideration will be provided to each of:
 - The Western Electricity Coordinating Council (**WECC**), in its capacity as Administrator, who will provide substantive review and recommendation to the BCUC

¹² Exhibit C17-3, BC Hydro Comments on BCUC Straw-Dogs, at p. 8-9, dated January 31, 2013.

- BC Hydro, in its capacity as the BA, who will limit its review to providing comments and recommendations on those issues within its Scope of Responsibility¹³
- The TAC, who will limit its review to providing comments and recommendations on BC-specific technical criteria after receipt and review of WECC's substantive review
- WECC and BC Hydro, in its capacity as the BA, will complete their review and provide recommendations to the BCUC, the TAC, the Applicant and each other within 6 months, unless the BCUC approves an alternative time period
- The TAC will complete its review and provide recommendations on BC-specific criteria to the BCUC, the Applicant, WECC and BC Hydro, in its capacity as BA, within 30 days from its receipt of the WECC report, unless the BCUC approves an alternative time period
- Each of BC Hydro, in its capacity as the BA, and the Applicant have 30 days to submit comments on any recommendations provided to the BCUC by WECC, the TAC, and BC Hydro, in its capacity as the BA
- The BCUC will issue a determination within 60 days from the close of submissions

BC Hydro submits that whether or not the above process is adopted, it is essential that WECC, as the Administrator, perform the initial review of any Exception Request to determine whether an Element is necessary for the reliable operation of the interconnected bulk-power transmission system based on criteria that are consistent with those applied across the rest of the Western Interconnection. Any recommendation by WECC could then be sent to the TAC to complete its review based on any BC-specific criteria it develops. At minimum, a review process that follows these essential steps will ensure consistency across the WECC region, which is an identified policy goal of the BC government and of this Inquiry.

Recommendation 11

BC Hydro recommends that the BCUC adopt an Exception Process that, at minimum, requires WECC perform the initial review of any Exception Request based on criteria that are consistent with those applied across the Western Interconnection. This review would then be followed by a review by the TAC which would be limited to applying BC-specific criteria only.

In its Information Request (IR) 16.2, BCUC Staff sought comments from interested parties on suggestions for the BCUC to consider in the event of significant differences between recommendations from the TAC and WECC in their assessment of Exception Requests. In response to this IR, AMPC suggested a brief written process convened by the BCUC that sought parties' comments. BC Hydro objects to this recommendation on the basis that it

¹³ As that functional role is defined in the NERC *Glossary* or as adopted by the BCUC from time to time.

appears to contemplate an additional and redundant process step that will only serve to lengthen an already long and involved process. Should the BCUC be faced with significant differences in recommendations from the TAC and WECC, it has a complete record before it (such as reports from WECC, BC Hydro in its capacity as BA, and the TAC, as well as any comments from the Applicant) to aid in its ultimate determination.

Partial Exclusion Exception

BC Hydro sees no value in the adoption of a Partial Exclusion Exception and recommends that the concept be removed, in its entirety, from the proposed BC Exception Process. Neither BCUC Staff nor any interested party to date has provided a compelling reason for its inclusion other than the prospect that it may provide increased flexibility and discretion. BC Hydro submits that the Exception Process, as proposed, provides all Entities and the BCUC with more than adequate flexibility to allow an Entity whose facilities may not affect the reliable operation of the BES to be excluded, if appropriate. The introduction of a Partial Exclusion Exception will not provide greater flexibility and in fact, will only serve to add confusion and uncertainty in the application of the BC MRS Program.¹⁴

BC Hydro submits that the adoption of a Partial Exclusion Exception will have a direct detrimental impact on the overall reliability of the BES because reliability standards would no longer be applied consistently across Entities.

In addition, BC Hydro remains unclear as to what the BCUC Staff are referring to when, in Part B, section 3.1(c) of Exhibit A-7, it provides the following statement as a basis for adopting a Partial Exclusion Exception: “it may be that responsibilities covered in Reliability Standards are already adequately addressed in other requirements applicable in BC that may also be mandatory and subject to compliance monitoring and administrative penalties.” BC Hydro is not aware of any regimes currently in place that would meet these criteria – i.e., which contain requirements applicable in BC that are mandatory, subject to compliance monitoring and administrative penalties. BC Hydro believes that all Entities that perform the tasks required of a “Responsible Entity” should be treated equally.

If the above statement contemplates arrangements made under contract, BC Hydro does not believe this adequately meets the criteria outlined by the BCUC in the BC MRS Program and it has significant concerns that reliance on private agreements would inappropriately shift the burden of enforcing and monitoring compliance with reliability standards from one party to another. While it may be true that certain MRS obligations could also be contained in private agreements between contracting parties, this does not mean that a party should be able to circumvent its obligations under the BC MRS Program. A practical effect of this could result in a party not having exposure to penalties for non-compliance under the BC MRS Program. This would create an imbalance in the application of the BC MRS Program and one that BC Hydro believes is untenable.

¹⁴ See Exhibit C17-11, BC Hydro Response to BCUC Information Request No. 1 Straw Dog 1 at 13.2, dated April 26, 2013, for further examples.

Finally, as noted in BC Hydro's response to BCUC IR 13.2, BC Hydro is concerned with possible implementation issues associated with a Partial Exclusion Exception. Specifically, BC Hydro is concerned that the Partial Exclusion Exception introduces potential inconsistencies and confusion in the actual application of the BC MRS Program. By way of example, BC Hydro submits that if only certain aspects of an Entity's business are excluded from the BC MRS Program, how will the BCUC track these exclusions? Will the exclusions be regularly revisited as standards change or as an Entity's facilities change to ensure they remain appropriate? And, how will other Entities, like BC Hydro as the BA, know which exclusions have been granted? If a Partial Exclusion Exception is ultimately adopted, which BC Hydro is opposed to, at minimum these implementation related concerns must be addressed.

BC Hydro reiterates its position that the proposed BC Exception Process provides sufficient opportunity for parties to seek relief from being captured under the BC MRS Program and that any adoption of a Partial Exclusion Exception will only serve to harm the overall reliability of the BC system.

Recommendation 12

BC Hydro recommends that the concept of a Partial Exclusion Exception be removed in its entirety from the proposed BC Exception Process.

b) Exhibit A-8, BCUC Straw-Dog #2

Part A, Exhibit A-8: Find, Fix, Track (FFT) Option for Possible Violations

BC Hydro remains supportive of the adoption of a BC FFT Process¹⁵ for use in BC. As recently reported in NERC's One Year Status Report of the NERC FFT Process¹⁶ the goal of the FFT Process is "to improve the throughput of standards' violations that pose a small or negligible risk to the BES."¹⁷ The NERC FFT Process has resulted in significant gains in administrative efficiency¹⁸ which is precisely what the BC MRS Program should seek to mimic and BC Hydro is encouraged that the BCUC appears supportive of adoption of the NERC FFT Process in its entirety and with no modification.

¹⁵ "BC FFT Process" is defined in Exhibit A-8, Part A as "may be defined to mean the process described in this Part A for assessing and reporting as remediated Possible Violations that appear to pose minimal risk to the bulk power system, such as certain administrative, documentation, maintenance or testing program implementation failures."

¹⁶ See LiveWire *Spotlight* on NERC's Find, Fix, Track, and Report Process –One Year Status Report, dated April 2, 2013 (the **Live Wire Report**).

¹⁷ *Ibid.*

¹⁸ Such as: NERC and the relevant regions have been able to devote far more attention to high-priority violations; the backlog in violations has decreased 80 per cent even while incoming caseloads increased per month (which was previously at a backlog of 3,300 violations and was growing, all as more fully described in the LiveWire report.

In this regard, BC Hydro notes that NERC is proposing several enhancements that expand the scope and parameters of violations to be processed through the FFT Process. Specifically, NERC is recommending that some moderate risk violations be eligible for FFT treatment if the entity demonstrates strong internal controls. NERC is also suggesting that an un-finished mitigation plan should not immediately disqualify a violation, provided completion will occur within 3 months. BC Hydro is supportive of these enhancements to the FFT Program and anticipates that the BC FFT Program, if implemented, will continue to follow NERC's lead and looks forward to an equally successful FFT Program in BC.

Recommendation 13

BC Hydro recommends that the BCUC adopt an FFT Program for BC that mimics the NERC FFT Program, as amended from time to time.

Part C, Exhibit A-8: Process for Levying Penalties for Confirmed Violations

In BC Hydro's January 31, 2013 submission, it noted that in BC's Rules of Procedure, there are currently only two options for an Entity that receives a Notice of Alleged Violation (**NOAV**), either, (a) agree with the violation, or, (b) contest the violation. However, what is missing in this process is the provision by the BCUC of what the suggested penalty amount is. In contrast, the NERC process provides an Entity that receives a NOAV with a suggested penalty amount. The NERC Rules of Procedure therefore provide for a third option which allows an Entity to agree with the violation but contest the proposed penalty amount.

In the process proposed by BCUC Staff it is suggested that any assessment of penalty amounts will not be completed until a Confirmed Violation is issued. This means that there is no opportunity for an Entity to dispute the amount of the penalty, even if it is in agreement that a violation has occurred. BC Hydro believes this is a deficiency in the proposed penalty process and one that must be remedied. While BC Hydro acknowledges there are inherent processes available to an aggrieved party who disagrees with a BCUC Order, those remedies are onerous and unnecessary if a built-in process is available which can more efficiently address any concerns a party may have. Therefore, BC Hydro recommends that the BCUC adopt a process that allows a party to dispute a penalty before the "Order of Notice of Penalty" has been issued by the BCUC. This could be achieved by including the proposed penalty amount in the NOAV process and providing an Entity faced with a NOAV the opportunity to (a) agree with the violation and penalty amount, (b) contest the violation and penalty amount, or, (c) agree with the violation but contest the penalty amount. In BC Hydro's view it is essential that an Entity have notice of, and be able to respond to, a proposed penalty.

Recommendation 14

BC Hydro recommends that the BCUC adopt a process that allows a party to dispute a penalty before the “Order of Notice of Penalty” has been issued by the BCUC. This can be achieved by including the proposed penalty amount in the NOAV process and providing an Entity faced with a NOAV the opportunity to (a) agree with the violation and penalty amount, (b) contest the violation and penalty amount, or, (c) agree with the violation but contest the penalty amount.

Part D, Exhibit A-8: Process for Assessment of Non-Compliance

In Order No. R-72-12, at (U) it states, “the assessment of severity and risk levels for violations under the BC MRS Program has been identified as an area where specific input from BC MRS Program participants and stakeholders may be helpful for the BCUC”. All participants to this proceeding¹⁹ who have commented, unanimously agree that the proposed Impact and Non-Compliance Matrix is overly onerous and not in line with other jurisdictions and specifically, that of NERC. Most parties have therefore urged the BCUC to adopt a more moderate approach and, at minimum, realign the Impact and Non-Compliance Matrix with the NERC equivalent. BC Hydro submits that the BCUC needs to make two fundamental changes to the proposed process for assessing penalties for Confirmed Violations²⁰, first, a change to the penalty assessment process itself and secondly, a change to replace the Impact and Non-Compliance Matrix with the NERC Base Penalty Amount table (the **NERC Table**).

Change to Proposed Penalty Assessment Process

As BC Hydro understands the process, in Exhibit A-8, BCUC Staff are proposing the following for the assessment of penalties:

- The Administrator will provide the BCUC and Entity with an assessment of the applicable Violation Severity Level (**VSL**) and Violation Risk Factor (**VRF**) together with a Reliability Impact and Severity Assessment in written notes articulating the Administrator’s description of the severity and impact of the specific situation
- After assessing the available information, the BCUC may, but would not be required to, request additional information from the Entity, Administrator, TAC or others
- The BCUC will then refer to the Penalty Process in considering appropriate administrative penalties for Confirmed Violations, which includes:
 - Consideration of the actual or potential impact of the contravention and the degree or level of non-compliance associated with the contravention
 - This consideration will be based on a list of specific factors that includes subjective criteria

¹⁹ AMPC, CPC, BCMEU, CEA, FortisBC, Teck and BC Hydro.

²⁰ As described in Parts C and D of Exhibit A-8, BCUC Straw-Dog #2.

- In making its assessment, the BCUC will refer to the proposed Non-Compliance Matrix for a possible penalty amount which includes consideration of subjective criteria
- In considering the proposed penalty amount, the BCUC will consider potentially aggravating or mitigating factors that may suggest a higher or lower penalty amount
- The BCUC has full discretion to deviate from the matrix ranges at any time

BC Hydro does not support the process as outlined above because it combines an assessment of subjective criteria (e.g., impact on other parties, impact within BC, degree by which the Reliability Standard performance was not met, and the all-encompassing “any other factors the Commission in its discretion may consider relevant”²¹) with VRF and VSL factors in arriving at an initial penalty amount. This process does not provide an entity with an understanding as to how the violation was assessed based on the VRF and VSL factors and also how it was subsequently adjusted based on the subjective factors.

BC Hydro recommends that, rather than the process outlined above, the BCUC instead adopt a process for assessing penalties for Confirmed Violations that generally aligns with the process NERC currently has in place²². At a high level, NERC’s penalty assessment includes the following steps:

1. A base penalty amount is determined – NERC’s process for determining a base penalty amount involves two stages:
 - a. An examination of non-compliance based on VRF and VSL factors only is completed to determine an initial value range for the base penalty amount:
 - i. The VRF factors provide clear, concise and comparative association between the violation of a requirement and the expected or potential impact of the violation on the reliability of the interconnected grid. Based on these factors, a party is able to clearly identify the risk factor associated with its violation.
 - ii. The VSL factors are defined to reflect the degree to which a requirement of an MRS was violated. Again, a party is able to clearly identify the severity of its violation with respect to its impact on the reliability of the interconnected grid.
 - b. Once an initial value range for the base penalty amount has been determined, a base penalty amount is determined based on a limited set of subjective factors
2. The base penalty is adjusted to determine a penalty amount to be issued to the violating entity – NERC’s process allows for the adjustment of the initial base penalty amount based on a set of subjective factors (e.g., degree of cooperation by the violator and financial ability of the violator to pay a penalty) that may suggest a higher or lower amount

²¹ As more fully described in Exhibit A-8, BCUC Straw-Dog #2, Part D at pp.9-10.

²² See NERC Rules of Procedure, Appendix 4B for a full description of its process.

In BC Hydro's view, NERC's process is more transparent and makes practical sense. Perhaps most compelling is the fact that under the NERC process, parties are able to clearly understand both how the initial base penalty amount was determined as well as how the subjective factors considered by NERC affected that initial penalty amount.

BC Hydro therefore recommends that the BCUC adopt the NERC process for determining penalties except that the BCUC may consider the factors listed in Part D of Exhibit A-8 in place of NERC's subjective factors.²³ In order to enable such a process change, BC Hydro recommends the adoption of the NERC Table wholesale and replacing the proposed "Impact" and "Non-Compliance" axes with a "VRF" and "VSL" axes respectively.

For clarity, BC Hydro is not advocating against the use of the enumerated subjective factors currently listed in Part D of Exhibit A-8 under the headings Impact Level and Non-Compliance Level,²⁴ but rather, that these factors be considered as part of a subjective review following the determination of an initial penalty amount. Additionally, like NERC²⁵, should the BCUC consider "other factors it deems appropriate" in this analysis, BC Hydro recommends that their use be clearly identified and adequately justified by the BCUC.

Recommendation 15

BC Hydro recommends adopting a penalty assessment process that aligns with NERC's.

Recommendation 16

BC Hydro recommends adopting the NERC Table wholesale and replacing the "Impact" and "Non-Compliance" axes with "VRF" and "VSL" axes *respectively*.

Change to Penalty Amounts in Impact and Non-Compliance Matrix

As noted above, all parties to this proceeding who have commented agree that the penalty amounts contained in the proposed Impact and Non-Compliance Matrix should follow those amounts used by NERC. BC Hydro is not aware of any compelling reason why the penalty amounts should be varied for BC and is especially concerned that they are significantly higher than those adopted by NERC²⁶. BC Hydro therefore reiterates its recommendation that the BCUC adopt the NERC penalty amounts and not those proposed in BCUC Straw-Dog #2, regardless of whether the NERC Table is adopted wholesale.

²³ See NERC Rules of Procedure, Appendix 4B, sections 3.3 and 3.4

²⁴ Exhibit A-8, BCUC Straw-Dog #2, at p. 9.

²⁵ See NERC Rules of Procedure, Appendix 4B at p. 10.

²⁶ Exhibit C17-3, BC Hydro Comments on BCUC Straw-Dogs, dated January 31, 2013 at p. 12 for a comparison table that identifies the differences between NERC's penalty table and the one proposed in Straw-Dog #2.

Recommendation 17

BC Hydro recommends adopting the NERC penalty amounts and not those penalty amounts currently proposed.

a) *Exhibit A-9, BCUC Straw-Dog #3*

TAC Formation and Composition

BC Hydro supports the formation of a TAC and the notion that the TAC be limited to serving as an advisory body to the BCUC on BC-specific technical criteria.

BC Hydro observes the recommendations by AMPC and other interested parties that non-utility membership on the TAC is advisable. BC Hydro is not opposed to this suggestion however, as confirmed by numerous parties to this proceeding, it is essential that technical proficiency in the electric industry be the primary criterion for membership on the TAC.

Recommendation 18

BC Hydro submits it is essential that technical proficiency in the electric industry be the primary criterion for membership on the TAC.

BCUC Staff have proposed that BC Hydro and FortisBC each appoint a technically expert employee to serve as initial members of the TAC on the basis of their broad role and knowledge as the major transmission system operators in BC and that the TAC Chair shall be a BC Hydro member. BC Hydro agrees with this proposal but recommends that the TAC have at least one member from BC Hydro and one member from FortisBC at all times. Further to this point, BC Hydro recommends that despite the BCUC's discretion to direct a change in the Chair of the TAC, any replacement Chair should always be a BC Hydro member.

Recommendation 19

BC Hydro recommends that the TAC have at least one member from BC Hydro and one member from FortisBC at all times.

BC Hydro further recommends that despite the BCUC's discretion to direct a change in the Chair of the TAC, any replacement Chair should always be a BC Hydro member.

BCUC Staff have also proposed that, as the initial members of the TAC, the two individuals appointed by BC Hydro and FortisBC will propose to the BCUC between 3 and 8 additional members who meet the criteria and are willing to serve on the TAC. BC Hydro believes that the proposed maximum of 10 members on the TAC is excessive and anticipates that a committee of such size will hinder rather than enhance the

committee's advisory capability. As such, BC Hydro recommends that the maximum number of committee members on the TAC be limited to 5.

Recommendation 20

BC Hydro recommends that the maximum number of committee members on the TAC be limited to 5.

BC Hydro notes that numerous parties suggested that BC Hydro and FortisBC should be limited to one member each. While BC Hydro acknowledges the implicit concern underlying this statement, as stated above, it may be difficult to locate and select members who possess the requisite level of technical proficiency in the electric industry and time to dedicate to the TAC. Ultimately, it may be that BC Hydro and FortisBC employees are the most qualified and/or are the only candidates put forward. Therefore, explicitly discouraging numerous members from each of BC Hydro and FortisBC could result in unforeseen consequences.

Recommendation 21

BC Hydro objects to the suggestion that BC Hydro and FortisBC membership on the TAC be limited to one member each.

Finally, in Straw-Dog #3, BCUC Staff have expressly provided that TAC members shall participate on a voluntary basis and will receive no compensation or remuneration or reimbursement for time or expenses for the participation as TAC members. BC Hydro therefore objects to CPC's suggestion²⁷, or any suggestion, that the TAC be funded by members based on member size, member footprint, or at all.

Recommendation 22

BC Hydro objects to any suggestion, that the TAC be funded by members based on member size, member footprint, or at all.

²⁷ See Exhibit C19-5, CPC Response to BCUC Information Request No. 1 Straw Dog 3 at 1.4, dated April 26, 2013.

May 30, 2013
Ms. Erica Hamilton
Commission Secretary
British Columbia Utilities Commission
BCUC Inquiry into the BC Mandatory Reliability Standards (MRS) Program
(the BC MRS Program)
BC Hydro Final Written Submission

3 Conclusion

BC Hydro thanks the BCUC for the opportunity to participate in the Inquiry and provide its comments on the BCUC Straw-Dogs.

Yours sincerely,



Janet Fraser
Chief Regulatory Officer

st/kp

Copy to: BCUC Project No. 3698691 (BCUC Inquiry into the B.C. MRS Program)
Registered Interveners Distribution List.

APPENDIX "A"

Draft Amendments to the MRS Regulation, blacklined against the existing MRS
Regulation
May 30, 2013

Utilities Commission Act

MANDATORY RELIABILITY STANDARDS REGULATION

Note: Check the Cumulative Regulation Bulletin 2012 and 2013

for any non-consolidated amendments to this regulation that may be in effect.

Contents

- 1 Definitions
- 2 Application
- 3 Reports

Definitions

1 In this regulation:

"Act" means the *Utilities Commission Act*;

"bulk electric system" has the same meaning as in the *Rules of Procedure for Reliability Standards in BC*, as amended from time to time;

"bulk power system" means bulk electric system;

~~(a) electrical generation facilities and transmission facilities, including interconnections with neighbouring systems, that are generally operated at voltages of 100 kilovolts or greater, and
(b) transmission facilities that are generally operated at voltages of less than 100 kilovolts and that are, on their own or in combination with other generation, transmission or distribution facilities, material to reliability~~

~~but excludes radial transmission facilities, regardless of voltage, serving only end-users of electricity with one transmission source;~~

~~"direct user" means~~

~~(a) an entity that enters into an agreement for transmission service, and~~

~~(b) an end-user of electricity that receives electricity from transmission facilities at voltages of 100 kilovolts or greater;~~

~~"distributor" means an entity that receives electricity from transmission facilities at voltages of 69 kilovolts or greater for the purpose of serving end-users of electricity at voltages of less than 69 kilovolts;~~

~~"generator" means an owner or operator of an electrical generating unit or facility.~~

~~"element" has the same meaning as in the [Rules of Procedure for Reliability Standards in BC](#), as amended from time to time.~~

Application

2 A reliability standard adopted under section 125.2 (6) of the Act applies to ~~all~~[an owner or operator of an element forming part](#) of the ~~following:~~[bulk electric system](#).

~~(a) an owner or operator of a transmission facility with respect to the portion of the facility that is~~

~~(i) a part of the bulk power system, or~~

~~(ii) a radial transmission facility generally operated at voltages of 200 kilovolts or greater, if the reliability standard concerns vegetation management;~~

~~(b) a direct user of the bulk power system;~~

~~(c) a distributor who~~

~~(i) serves greater than 25 megawatts of peak load and is directly connected to the bulk power system, or~~

~~(ii) owns, controls or operates a facility, regardless of its size, that is part of~~

~~(A) an under-frequency load shedding program,~~

- ~~(B) an under-voltage load shedding program,~~
- ~~(C) a special protection system, or~~
- ~~(D) a transmission protection system~~

~~designed, installed and operated for the protection of the bulk power system;~~

~~(d) a generator with respect to all of the following:~~

~~(i) a generating unit that is greater than 20 megavolt amperes gross nameplate rating and is directly connected to the bulk power system, unless~~

~~(A) the net capacity provided to the bulk power system by the generating unit does not exceed 20 megavolt amperes, and~~

~~(B) standby, backup and maintenance power services are provided to the generating unit, or to end-users of electricity directly served by the generating unit, under a binding obligation with another generator or under terms approved by the commission;~~

~~(ii) a generating facility consisting of two or more generating units that are connected to the bulk power system at a common bus with a total combined generation of the generating units of greater than 75 megavolt amperes gross aggregate nameplate rating, unless~~

~~(A) the net capacity provided to the bulk power system by the facility does not exceed 75 megavolt amperes, and~~

~~(B) standby, backup and maintenance power services are provided to the generating facility, or to end-users of electricity directly served by the generating facility, under a binding obligation with another generator or under terms approved by the commission;~~

~~(iii) a generating facility that is connected to the bulk power system at a common bus with one or more other generating facilities or units, if the total combined generation of those~~

~~facilities and units is greater than 75 megavolt amperes gross aggregate nameplate rating, unless~~

~~(A) the net capacity provided to the bulk power system by the generating facilities and units does not exceed 75 megavolt amperes, and~~

~~(B) standby, backup and maintenance power services are provided to the generating facilities, or to end users of electricity directly served by the generating facilities, under a binding obligation with another generator or under terms approved by the commission;~~

~~(c) a generator with respect to a generating unit, regardless of size, that is~~

~~(i) a blackstart unit material to and designated as part of a transmission facility operator's plan for the restoration of the bulk power system, or~~

~~(ii) material to the reliability of the bulk power system.~~

Reports

3 (1) Subject to subsection (2), a report on a reliability standard, prepared by the transmission corporation in accordance with section 125.2 (3) of the Act, must be provided to the commission within one year of the later of the following dates:

(a) the date the reliability standard is adopted by the regulatory body with jurisdiction over the standard-making body that established the reliability standard;

(b) the date this regulation comes into force.

(2) On application by the transmission corporation, the commission may extend the time by which the transmission corporation must provide a report under subsection (1).

[Provisions of the *Utilities Commission Act*, R.S.B.C. 1996, c. 473, relevant to the enactment of this regulation: section 125.2]