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AGREEMENT
ON THE DEVELOPMENT OF ELECTRIC POWER TRANSMISSION
RELIABILITY STANDARDS AND OF PROCEDURES AND A
PROGRAM FOR THE MONITORING OF THE APPLICATION OF
THESE STANDARDS FOR QUÉBEC

9 **BETWEEN**

11 **Régie de l'énergie**, a public body established under the *Act respecting the Régie de l'énergie*
12 (R.S.Q., c. R-6.01) with headquarters at Tour de la Bourse, P.O. Box 001, 800 Place Victoria,
13 2nd floor, Suite 2.55, Montréal, Québec H4Z 1A2, acting through Jean-Paul Théorêt,
14 Chairman, duly authorized pursuant to subsection 85.4 of the *Act respecting the Régie de*
15 *l'énergie* (R.S.Q., c. R-6.01),

17 hereinafter referred to as "the Régie"

20 **AND**

22 **North American Electric Reliability Corporation**, a corporate body established under the
23 *New Jersey Nonprofit Corporation Act*, New Jersey Statutes Title 15A, with headquarters at
24 116-390 Village Boulevard, Princeton, New Jersey, United States, 08540-5721, acting through
25 Richard P. Sergel, President and Chief Executive Officer, duly authorized pursuant to
26 Article VI, Section 1, of the Bylaws of the North American Electric Reliability Corporation,

28 hereinafter referred to as "NERC"

31 **AND**

32 **Northeast Power Coordinating Council, Inc.**, a corporate body established under
33 Section 402 of the *New York State Not-for-Profit Corporation Law*, with headquarters at 1515
34 Broadway, 43rd floor, New York, New York, United States, 10036, acting through Edward A.
35 Schwerdt, President and Chief Executive Officer, duly authorized pursuant to the Amended
36 and Restated Bylaws of the Northeast Power Coordinating Council, Inc.,

37 hereinafter referred to as "NPCC."

38
39
40 **WHEREAS** subsection 85.2 of the *Act respecting the Régie de l'énergie* (the "Act") provides
41 for the Régie to ensure that electric power transmission in Québec is carried out in accordance
42 with the reliability standards it adopts;

43
44 **WHEREAS** reliability refers to the degree of performance of an electric power transmission
45 system that results in electricity being delivered to customers within accepted standards and in
46 the amount desired and may be measured by the frequency, duration, and magnitude of
47 adverse effects on the electric supply;

48
49 **WHEREAS** subsection 85.4 of the Act further provides that the Régie, with the authorization
50 of the Government of Québec, may enter into an agreement with a body that proves it has the
51 expertise to establish or monitor the application of electric power transmission reliability
52 standards for the purpose of developing such standards for Québec, carrying out inspections
53 and investigations as part of plans to monitor compliance with the reliability standards that the
54 Régie adopts, and providing the Régie with opinions and recommendations;

55
56 **WHEREAS** NERC is a New Jersey, United States (U.S.), not-for-profit corporation
57 sponsored by all sectors of the utility industry, including those in Québec, whose mission is
58 the development and enforcement of reliability standards to protect the reliability, adequacy,
59 and security of the bulk power system in North America. NERC is the successor to the North

1 American Electric Reliability Council. NERC coordinates its activities with eight (8) regional
2 entities in North America, including NPCC;

3
4 **WHEREAS** NERC has established the *NERC Reliability Standards Development Procedure*,
5 in which all Québec entities subject to the reliability standards referred to in subsection 85.3
6 of the Act may participate;

7
8 **WHEREAS** the American National Standards Institute ("ANSI") has accredited the *NERC*
9 *Reliability Standards Development Procedure* as being consistent with ANSI's standards
10 development principles;

11
12 **WHEREAS** the U.S. Federal Energy Regulatory Commission ("FERC") has certified NERC
13 as the Electric Reliability Organization, in accordance with the *Electricity Modernization Act*
14 *of 2005*, to develop, submit to it for approval and enforce reliability standards for the bulk
15 power system in the United States, subject to certain delegation provisions for the eight (8)
16 regional entities in North America, including the delegation provisions for NPCC described
17 below;

18
19 **WHEREAS** by means of legislation or other provisions, Ontario, New Brunswick, Manitoba,
20 British Columbia, Alberta, Saskatchewan and Nova Scotia, have made or will make
21 mandatory the NERC reliability standards;

22
23 **WHEREAS** the Régie has concluded that NERC has proven that it has the expertise to
24 develop and monitor the application of electric power transmission reliability standards;

25
26 **WHEREAS** NPCC is a not-for-profit corporation in New York State, United States, having
27 the purpose of promoting and enhancing the reliable and efficient operation of the
28 international, interconnected bulk power systems in northeastern North America through the
29 development of regional reliability standards and compliance assessment and enforcement of
30 continent-wide and regional reliability standards, coordination of system planning, design and
31 operations, and assessment of reliability, pursuant to an agreement with NERC which
32 designates NPCC as a cross-border regional entity for the northeastern United States and
33 delegates authority from FERC. Additionally, NPCC establishes regionally specific, more
34 stringent reliability criteria and monitors and enforces compliance with such criteria;

35
36 **WHEREAS** NPCC has developed the *NPCC Regional Reliability Standards Development*
37 *Procedure*, approved by NERC on October 23, 2007 and adopted by FERC on March 21,
38 2008, for the purpose of developing specific reliability standards for interconnected networks
39 in northeastern North America in which Québec entities subject to the reliability standards
40 referred to in subsection 85.3 of the Act may participate;

41
42 **WHEREAS** the Régie has concluded from NPCC's more than four decades of international
43 reliability assurance that NPCC has the expertise to develop, monitor the application of, and
44 assess compliance with electric power transmission reliability standards and criteria;

45
46 **WHEREAS** the Régie has resolved, for the reasons set out above, to mandate NERC and
47 NPCC to develop reliability standards that the Régie adopts for electric power transmission in
48 Québec and the procedures and a program for the monitoring of the application of these
49 standards, and provide the Régie with opinions and recommendations pursuant to the present
50 agreement (the "Agreement");

51
52 **WHEREAS** pursuant to subsection 85.5 of the Act, the Régie designated a reliability
53 coordinator for Québec in its Decision D-2007-95;

54
55 **WHEREAS** pursuant to subsection 85.6 of the Act, the said reliability coordinator must file
56 with the Régie the reliability standards proposed by a body that has entered into an agreement
57 with the Régie under subsection 85.4 of the Act, as well as any variant or other standard the
58 reliability coordinator considers necessary, an evaluation of the relevance and impact of the
59 standards filed and the identification of the entities that may be subject to the reliability
60 standards;

1 **WHEREAS** pursuant to subsection 85.7 of the Act, the Régie may request the reliability
2 coordinator to modify a standard filed or submit a new one;

3
4 **WHEREAS** pursuant to subsection 85.7 of the Act, the Régie shall adopt the reliability
5 standards and set the date for their coming into force;

6
7 **WHEREAS** pursuant to subsection 85.7 of the Act, the reliability standards may provide for a
8 schedule of sanctions, including financial penalties, that apply if standards are not complied
9 with and refer to reliability standards set by a standardization agency that has entered into an
10 agreement with the Régie;

11
12 **WHEREAS** pursuant to subsection 85.8 of the Act, the reliability coordinator shall submit to
13 the Régie a guide describing criteria to be taken into account in determining the sanction for
14 non-compliance with a reliability standard;

15
16 **WHEREAS** pursuant to subsection 85.9 of the Act, if an entity is the object of a violation
17 allegation to a reliability standard, it has at least twenty (20) days to submit observations to the
18 body mandated by the Régie for the monitoring of the application of the reliability standards
19 before this body reports to the Régie and recommends the application of a sanction, if need be;

20
21 **WHEREAS** pursuant to subsection 85.13 of the Act, the reliability coordinator must submit
22 to the Régie, for approval, a register identifying the entities subject to the reliability standards
23 adopted by the Régie;

24
25 **WHEREAS** the parties to the Agreement recognize the need to coordinate and to cooperate
26 for the enhancement of the reliability of the North American bulk power system, including
27 Québec's electric power transmission system, and to facilitate the exchange of experience,
28 information and data related to that system;

29
30 **WHEREAS** the Québec electric power transmission system is an asynchronous
31 interconnection and NERC and NPCC have recognized it as an Interconnection, it may,
32 therefore, require reliability standards or variants of such standards specific to this
33 Interconnection;

34
35 **NOW THEREFORE**, the Régie, NERC and NPCC agree as follows:

36
37 **1. INTERPRETATION**

38
39 **1.1 Exclusivity of Agreement**

40
41 This Agreement constitutes the entire agreement between the parties with respect to the
42 development of reliability standards applicable to Québec and of the procedures and a
43 program for the monitoring of the application of such standards, and opinions and
44 recommendations provided by NERC or NPCC with respect to such standards and the
45 electric power transmission reliability in Québec. It supersedes all prior agreements and
46 understandings, both written and oral, among the parties with respect to the subject matter
47 of this Agreement.

48
49 **1.2 Governing law and competent jurisdiction**

50
51 This Agreement shall be governed by the laws of Québec, and the courts of Québec shall
52 have exclusive jurisdiction to settle any disputes arising herefrom.

53
54 **1.3 Headings**

55
56 The headings of this Agreement are for convenience of reference only and shall not define,
57 limit, or otherwise affect any of the terms or provisions hereof.

58
59 **2. REPRESENTATIVES**

60
61 For the purposes of the application of the Agreement, the Régie designates Gilbert Neveu,
62 Executive Director, as its representative; NERC designates David Cook, Vice President, as its

1 representative; and NPCC designates Edward A. Schwerdt, President, as its representative.
2 Each of the parties undertakes to expeditiously advise the other parties of any change in its
3 representative.
4

5 **3. PURPOSE OF AGREEMENT**

6

7 **3.1** The Régie hereby retains the services of NERC and NPCC as experts in the
8 development of electric power transmission reliability standards. NERC and NPCC shall
9 develop, in accordance with their standards development procedures, electric power
10 transmission reliability standards applicable to Québec, and propose them to the reliability
11 coordinator for adoption by the Régie. The services of NERC and NPCC are also required
12 as technical experts to advise the Régie with respect to the review of the reliability
13 standards and of the sanction guide which will be filed by the reliability coordinator, and to
14 provide the Régie with opinions and recommendations.
15

16 **3.2** The Régie also retains the services of NERC and NPCC as experts in the monitoring
17 of the application of electric power transmission reliability standards. NERC and NPCC
18 shall develop, taking into account Québec's legal and regulatory environment and in
19 accordance with their applicable compliance monitoring procedures, specific procedures
20 and a program for the monitoring of the application of electric power transmission
21 reliability standards in Québec which they are able to implement. The Régie shall be
22 responsible for the said procedures and program.
23

24 **3.3** The said specific procedures and program for the monitoring of the application of
25 electric power transmission reliability standards in Québec will be submitted to a
26 consultation with the entities subject to the reliability standards.
27

28 **3.4** Subsequent to the said consultation and upon authorization from the Government of
29 Québec, a second agreement shall detail the mandates granted by the Régie to NERC and
30 to NPCC with respect to the implementation of the said procedures and program for the
31 monitoring of the application of electric power transmission reliability standards in Québec
32 and the provision of opinions and recommendations to the Régie in this regard.
33

34 **4. UNDERTAKINGS OF NERC AND NPCC**

35

36 **4.1** NERC and NPCC undertake to develop electric power transmission reliability
37 standards applicable to Québec in accordance with their procedures, namely the *NERC*
38 *Reliability Standards Development Procedure* and the *NPCC Regional Reliability*
39 *Standards Development Procedure*. To this end, NERC and NPCC undertake, within the
40 framework of their respective procedures, to take note of the comments and opinions
41 submitted by the Québec reliability coordinator, the electric power carriers and users of
42 electric power transmission services in Québec.
43

44 **4.2** NERC and NPCC undertake to ascertain that any electric power transmission
45 reliability standards specific to Québec, and/or any variant of such standards specific to
46 Québec, which the reliability coordinator deems necessary to ensure the reliability of
47 electric power transmission in Québec, is as stringent as the NERC reliability standards
48 applicable in the rest of North America.
49

50 **4.3** NERC and NPCC undertake to develop, in accordance with their compliance
51 monitoring procedures, namely the *NERC Rules of Procedures*, the *NERC Uniform*
52 *Compliance Monitoring and Enforcement Program* and the *NPCC Compliance Monitoring*
53 *and Enforcement Program*, specific program and procedures for the monitoring of the
54 application of electric power transmission reliability standards adapted to Québec's legal
55 and regulatory environment.
56

57 **4.4** NERC and NPCC undertake to have representatives present or, as necessary, to
58 testify as technical experts at the hearings the Régie will hold, if need be, when filings
59 regarding reliability standards are examined by the Régie pursuant to subsections 85.6 and
60 85.7 of the Act, and when the sanction guide filed by the reliability coordinator pursuant to
61 subsection 85.8 of the Act is reviewed.
62

1 **4.5** NERC and NPCC undertake to submit to the Régie, at the Régie's request, opinions
2 or recommendations during the proceedings referred to in Article 4.4, including but not
3 limited to opinions or recommendations respecting matters submitted to the Régie's
4 consideration by the reliability coordinator.

5
6 **4.6** NERC and NPCC undertake to inform the Régie promptly of potential threats to the
7 reliability of the electric power transmission system in Québec.

8
9 **4.7** NERC and NPCC undertake to submit to the Régie, at the Régie's request or on their
10 own initiative, opinions or recommendations on all matters related to the reliability of
11 electric power transmission in Québec.

12
13 **4.8** NERC and NPCC undertake to collaborate closely with the Régie on the
14 implementation of this Agreement and to take into consideration all instructions and
15 recommendations from the Régie related to this Agreement.

16
17 **4.9** NERC and NPCC undertake to develop the procedures and a program for the
18 monitoring of the application of the electric power transmission reliability standards for
19 Québec which they will be able to implement, and to provide the Régie with opinions and
20 recommendations.

21
22 **4.10** NERC and NPCC hereby represent and warrant that during the term of this
23 Agreement each of them shall remain validly existing and in good standing pursuant to all
24 applicable laws relevant to this Agreement.

25 26 **5. REMUNERATION**

27
28 **5.1** The total remuneration received by NERC and NPCC for, among other things,
29 developing and monitoring the application of electric power transmission reliability
30 standards in the United States and Canada (and, in the case of NERC only, in Mexico) is
31 allocated in accordance with the currently effective calculation method approved by the
32 NERC Board of Trustees.

33
34 **5.2** Québec's share of that total remuneration is currently paid by Hydro-Québec
35 TransÉnergie, Québec's electric power carrier, as approved by the Régie in its decisions in
36 which it fixes or modifies the electric power carrier's rates pursuant to section 49 of the
37 Act.

38
39 **5.3** Québec's share of the total remuneration approved by NERC's Board of Trustees in
40 consideration of the monitoring of the application of electric power transmission reliability
41 standards in Québec by NERC and NPCC will be paid by the Régie as of the date of
42 signing the Agreement and shall cover all the services they undertake to provide to the
43 Régie under this Agreement.

44
45 **5.4** Québec's share of the total remuneration will continue to be paid by Hydro-Québec
46 TransÉnergie, as approved by the Régie, with the exception of the portion of Québec's
47 share, referred to in Article 5.3, which will be paid by the Régie as of the date of signing
48 the Agreement.

49
50 **5.5** NERC and NPCC agree that this remuneration shall cover all the services they
51 undertake to provide under this Agreement.

52
53 **5.6** NERC and NPCC shall provide the Régie with the draft versions of their respective
54 annual Business Plans and Operating Budgets by May 31st of each year and with the final
55 versions of the said documents by August 15th of each year.

56
57 **5.7** By December 1st of each year, at the latest, NERC and NPCC shall provide the Régie
58 with their final budgets for the coming calendar year for the portion of Québec's share that
59 will be paid by the Régie, in order to allow the Régie to prepare its own budget.

60
61 **5.8** If the Régie objects to the budgets or any invoice(s) submitted under this Agreement,
62 it shall promptly notify NERC and/or NPCC in writing. The parties agree that, should the

1 Régie object to an invoice, payment shall be effected under protest and the objection
2 resolved pursuant to Article 9.

3 4 **6. DECLARATIONS**

5
6 NERC and NPCC do hereby declare that no applicable law, contract or other legal obligation
7 prevents them from executing this Agreement and fulfilling their obligations hereunder.

8
9 The Régie declares that it has been duly authorized by the Government of Québec to make
10 this Agreement, pursuant to subsection 85.4 of the Act.

11 12 **7. TERM OF AGREEMENT AND TERMINATION**

13
14 This Agreement is effective as of the date of the last signing by the parties.

15
16 Either party may terminate this Agreement upon one year's notice to the other party.

17 18 **8. DEFAULT AND CURE**

19
20 Upon the failure of a party to perform or observe any material term, condition or covenant of
21 the Agreement, the non-breaching party shall give written notice of such breach to the
22 breaching party (the "Default Notice"). Subject to a suspension of the following deadlines as
23 specified below, the breaching party shall have thirty (30) days from receipt of the Default
24 Notice within which to cure such breach; provided however, that if such breach is not capable
25 of cure within thirty (30) days, the breaching party shall commence such cure within thirty
26 (30) days after notice and continuously and diligently complete such cure within ninety (90)
27 days from receipt of the Default Notice; and, if cured within such time, the breach specified in
28 such notice shall cease to exist. Subject to the limitation specified in the following sentence, if
29 a breach is not cured as provided in this Article, or if a breach is not capable of being cured
30 within the period provided for herein, the nonbreaching party shall have the right to declare a
31 default and resiliate this Agreement by written notice at any time until cure occurs, and be
32 relieved of any further obligation hereunder. The deadlines for cure and the right to declare a
33 default and terminate this Agreement shall be suspended during the pendency of any efforts or
34 proceedings in accordance with Article 9 of this Agreement to resolve a dispute as to whether
35 a breach has occurred. Resiliation of this Agreement does not extinguish any obligation
36 existing at the time of the resiliation.

37 38 **9. DISPUTE RESOLUTION**

39
40 In the event a dispute arises under this Agreement between the Régie, NERC and/or NPCC,
41 representatives of the parties with authority to settle the dispute shall meet and confer in good
42 faith in an effort to resolve the dispute in a timely manner. In the event the designated
43 representatives are unable to resolve the dispute within thirty (30) days or such other period as
44 the parties may agree upon, each party shall have all rights to pursue all remedies, except as
45 expressly limited by the terms of this Agreement. Neither party shall have the right to pursue
46 other remedies until the Dispute Resolution procedures of this Article 9 have been exhausted.
47 This Article 9 shall not apply to enforcement actions against registered entities.

48 49 **10. LIMITATION OF LIABILITY**

50
51 The Régie agrees not to sue NERC or NPCC or their directors, officers, employees, and
52 persons serving on their committees and subgroups based on any act or omission of any of the
53 foregoing in the performance of duties pursuant to this Agreement or in conducting activities
54 under the authority of the Act, except to the extent that NERC or NPCC is found liable for
55 gross negligence or intentional misconduct.

56 57 **11. ASSIGNMENT**

58
59 NERC and NPCC may not assign their rights and obligations under this Agreement without
60 the consent of the Régie. However, nothing in this provision shall prohibit NERC or NPCC
61 from contracting with other entities to assist them in carrying out their responsibilities under

1 the Agreement. NERC and NPCC shall, however, remain responsible for their obligations
2 under this Agreement.

3 4 **12. CONFIDENTIALITY**

5
6 The information contained in the opinions and recommendations of NERC or NPCC to the
7 Régie may not be copied, disclosed or distributed without the prior written permission of the
8 Régie. In their opinions and recommendations, NERC and NPCC may identify the
9 information they deem to be confidential.

10
11 During the course of the parties' performance under this Agreement, a party may receive
12 Confidential Information, as defined in Section 1500 of NERC's Rules of Procedure or
13 information of the same nature considered confidential by the Régie. Except as set forth
14 herein, the parties agree to keep in confidence and not to copy, disclose, or distribute any
15 Confidential Information or any part thereof, without the prior written permission of the
16 issuing party, unless disclosure is required by subpoena, law, or other directive of a court,
17 administrative agency, or arbitration panel, in which event the recipient hereby agrees to
18 provide the party that provided the Confidential Information with prompt notice of such
19 request or requirement in order to enable such issuing party to (a) seek an appropriate
20 protective order or other remedy, (b) consult with the recipient with respect to taking steps to
21 resist or narrow the scope of such request or legal process, or (c) waive compliance, in whole
22 or in part, with the terms of this Article. In the event a protective order or other remedy is not
23 obtained or the issuing party waives compliance with the provisions, the recipient agrees to
24 furnish only that portion of the Confidential Information which the recipient's counsel advises
25 is legally required and to exercise best efforts to obtain assurance that confidential treatment
26 will be accorded to such Confidential Information. In addition, each party shall ensure that its
27 officers, trustees, directors, employees, subcontractors and subcontractors' employees, and
28 agents to whom Confidential Information is exposed are under obligations of confidentiality
29 that are at least as restrictive as those contained herein.

30 31 **13. NO THIRD PARTY BENEFICIARIES**

32
33 Nothing in this Agreement shall be construed to create any duty to, any standard of care with
34 reference to, or any liability to any third party.

35 36 **14. NOTICE**

37
38 Whether expressly so stated or not, all notices, demands, requests, and other communications
39 required or permitted by or provided for in this Agreement shall be given in writing to a party
40 at the address set forth below, or at such other address as a party shall designate for itself in
41 writing in accordance with this Article, and shall be delivered by hand or reputable overnight
42 courier.

43
44 The Régie: Mr. Gilbert Neveu, Executive Director
45 Fax: (514) 873-3037
46 Email: gilbert.neveu@regie-energie.qc.ca

47
48 NERC: Mr. David Cook, Vice President
49 Fax: (609) 452-9550
50 Email: david.cook@nerc.net

51
52 NPCC: Mr. Edward A. Schwerdt, President
53 Fax: (212) 302-2782
54 Email: eschwerdt@npcc.org


55 56 **15. EXECUTION OF COUNTERPARTS**


57
58 This Agreement is executed in four (4) counterparts in French and four (4) counterparts in
59 English and each has the same force and effect as the original.

1 **IN WITNESS WHEREOF**, the parties have caused the Agreement, in French and in English,
2 both versions being regarded as equally authentic and valid, to be executed by their duly
3 authorized representatives.

4
5 Signed for and on behalf of the Régie

Signed for and on behalf of NERC

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11 
12 Jean-Paul Théorêt
13 President
14 Régie de l'énergie
15 (514) 873-2452, extension 281

16
17 
18 Richard P. Sergel
19 President and Chief Executive Officer
20 North American Electric Reliability
21 Corporation
22 (609) 452-8060

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32 Date : 8 mai 2009

Date : 8 mai 2009

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Signed for and on behalf of NPCC

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26 
27 Edward A. Schwerdt
28 President and Chief Executive Officer
29 Northeast Power Coordinating Council, Inc.
30 (212) 840-1070

31
32 Date : 8 mai 2009
33