

MANITOBA ) Order No. 137/10  
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THE PUBLIC UTILITIES BOARD ACT ) December 23, 2010

BEFORE: Graham Lane, CA, Chairman  
Robert Mayer, QC, Vice-Chair

THE MIDWEST RELIABILITY ORGANIZATION  
AND THE NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
APPLICATION RESPECTING ALLEGED VIOLATIONS OF  
RELIABILITY STANDARDS BY MANITOBA HYDRO AND RELATED MATTERS

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## **Summary**

By this Order, the Public Utilities Board (Board) confirms Manitoba Hydro's (MH) violation of Reliability Standards TOP-004-2, R4 and COM-002-2, R1.1, approves the Settlement Agreement between the Midwest Reliability Organization (MRO) and MH (including the proposed penalty of \$25,000), and accepts Mitigation Plans submitted by MH (to address the violations of the standards).

In June 2008, an "Interim Agreement on Compliance Enforcement and Monitoring in Manitoba" (Interim Agreement) was reached between MH, The North American Electric Reliability Corporation (NERC), and MRO. The agreement establishes arrangements for NERC and MRO to monitor compliance and enforce electricity reliability standards in Manitoba as to the bulk transmission grid.

The Interim Agreement recognizes the Board as the regulatory authority responsible for making determinations concerning bulk transmission standards violations, settlement agreements, mitigation plans and penalties. Furthermore, Order in Council 68/2009 of February 2009 provides the Board authority to carry out the responsibilities defined in the Interim Agreement.

## **Regulatory and Legal Background**

As a result of the 2003 blackout in Eastern Canada and the Eastern United States, a bilateral Canada-U.S. team recommended the development and enactment of mandatory electrical transmission reliability standards (and the creation of a single body to make and enforce such standards).

NERC was appointed to make and enforce standards, subject to Federal Energy Regulatory Commission (FERC) oversight. NERC may delegate its enforcement powers to regional bodies, which include MRO (MRO is one of eight regional reliability councils in North America).

Manitoba Order in Council 206/2004 authorized MH to join the MRO and adopt its reliability standards and requirements. (The Lieutenant Governor in Council can disallow the application of any particular standard within Manitoba, and remand it for reconsideration.)

In June 2008, an "Interim Agreement on Compliance Enforcement & Monitoring" was reached between MH, NERC, and MRO. The agreement provides interim arrangements for NERC and MRO to enforce electricity reliability standards in Manitoba for the bulk transmission grid (pending proclamation of Manitoba legislation to bring into effect a permanent regulatory infrastructure to support the standards in Manitoba).

In February 2009, Order in Council 68/2009 provided the Board authority to carry out responsibilities defined in the Interim Agreement. Effectively, the Board is recognized as the Manitoba regulatory authority charged with making determinations about standards violations, settlement agreements, mitigation plans and penalties.

In June 2009, *The Manitoba Hydro Amendment and Public Utilities Board Amendment Act (Electrical Reliability)* was passed by the Manitoba legislature. The Bill establishes the framework for the adoption and enforcement of electricity reliability standards

that relate to Manitoba's interconnected electric transmission grid with other Canadian provinces and the United States. The Bill awaits proclamation.

### **Incident**

As outlined in an application by MRO, MH's violation of reliability standards occurred on September 25, 2008, when a transmission line was taken out of service in North Dakota for planned maintenance while, at the same time, a transmission line in Saskatchewan was already out of service (also for scheduled maintenance).

When the Saskatchewan line was taken out of service, MH's operating equipment reported a problem indicating that transfer limits on their lines to the U.S. were exceeded. MH should have reduced its exports to the United States within 30 minutes, and, also, notified the Reliability Coordinator (these actions required to be in compliance with standards).

Fortunately, the event did not result in any negative implications for the bulk transmission grid.

### **Application**

On August 16, 2010, MRO and NERC applied to the Board, for:

- (i) Confirmation of Alleged Violations by MH of Reliability Standards TOP-004-2, Requirement 4 ("R4") and COM-002-2, Requirement 1.1 ("R1.1");
- (ii) Approval of the Settlement Agreement between MH and MRO including the proposed penalty of \$25,000, as

appropriate for the violations and circumstances in question; and

- (iii) Approval of Mitigation Plans prepared to correct and prevent reoccurrence of the Reliability Standard violations.

MRO's application was made in accordance with the "Interim Agreement on Compliance Monitoring & Enforcement in Manitoba".

MRO's application included:

- MH's self-report for the alleged violation of TOP-004-2, R4 dated December 2, 2008;
- MRO's Spot Check Assessment for the alleged violation of COM-002-2, R1.1 dated August 12, 2009;
- Settlement Agreement by and between MRO and MH executed July 16, 2010;
- MH's Mitigation Plan, submitted September 18, 2009 to address mitigation of violation of standard TOP-004-2, R4; and
- MH's Mitigation Plan, submitted May 5, 2010 to address mitigation of violation of standard COM-002-2, R1.1.

The purpose of Reliability Standard TOP-004-2 is to ensure that the transmission system is operated so that instability, uncontrolled separation, or cascading outages will not occur as a result of either the most severe single contingency or specified multiple contingencies.

Requirement 4 of the Reliability Standard TOP-004-2 states:

"If a Transmission Operator enters an unknown state (i.e. any state for which valid operating limits have not been determined), it will be considered to be in an emergency and shall restore operations to respect proven reliability power system limits within 30 minutes".

The purposes of Reliability Standard COM-002-2 are to ensure that Balancing Authorities, Transmission Operators, and Generator Operators have adequate communications; that these communications capabilities are staffed and available for addressing real-time emergency conditions; and, to ensure that communications by operating personnel are effective.

**MH's Actions:**

On October 10, 2008, MH self-reported to MRO non-compliance with Reliability Standard TOP-004-2 Requirement 4 ("R4"). During the course of MRO investigations, MRO issued a Spot Check request to MH on standard COM-002-2, Requirement 1.1 ("R1.1").

MRO concluded that MH had been in non-compliance with Reliability Standard TOP-004-2 R4, as the system functioned in an unknown state for 98 minutes and MH failed to restore its operations to respect proven reliability power system limits within 30 minutes (as required).

MRO also determined that during the time MH operated in an unknown state, MH did not contact either its Reliability Coordinator or other potentially affected Balancing Authorities and Transmission Operators, as required by Reliability Standard COM-002-2, R1.1.

MH did not dispute the findings of MRO and, subsequently, entered into a Settlement Agreement (to resolve the alleged violations in accordance with the requirements of the "Interim Agreement on Compliance Monitoring and Enforcement in Manitoba").

The Settlement Agreement calls for a penalty of \$25,000 to be paid by MH, the funds to be held in an escrow account until disbursed consistent with the requirements of the Manitoba Hydro Amendment and Public Utilities Board Amendment Act (and any applicable regulations enacted thereunder).

MRO's filing with the Board also included proposed mitigation plans outlining actions (proposed or implemented) by MH to avoid a repeat of the identified violations.

### **Intervener Positions**

In accordance with Board procedure, Interveners of record in the current MH General Rate Application proceeding were provided an opportunity to provide comments.

The Board received submissions from the Green Action Centre (formerly Resource Conservation Manitoba/Time to respect Earths Ecosystems) and the Southern Chiefs' Organization (SCO).

#### *Green Action Centre:*

The Green Action Centre had no objection to the Settlement Agreement; its concerns focused on the limited scope of the investigation.

The Green Action Centre claimed that "the scope of the investigation of the circumstances of the violations and consequent lessons and responsive mitigation measures may have been incomplete because they appear to be focussed on internal operations of Manitoba Hydro".

According to the Green Action Centre, actions and operations of neighbouring reliability and operating authorities should have also been included and communication protocols developed to provide adequate system redundancies.

*The Southern Chiefs' Organization:*

SCO's concern focused on MH's apparent "lack of commitment to transparency and open communications regarding MH's risk assessment".

SCO held that their Information Requests to assess potential risks resulting from MH's violation of Reliability Standards were not addressed in an informative way by either MH or MRO, and, therefore, were evidence of MH's unwillingness to commit to transparency and open communication within the process.

**Board Findings**

The Board recognizes the reliability of the bulk transmission system to be critical to the North American economy, and holds that every reasonable effort should be made to preserve the integrity of the interconnected transmission grid.

The development of mandatory and enforceable transmission reliability standards represents one of the primary methods to ensure reliability of the grid.



In accordance with the "Interim Agreement on Compliance Monitoring & Enforcement in Manitoba" the MRO Application seeks Board confirmation of the alleged violations, approval of the Settlement Agreement (including the recommended sanction of \$25,000) and approval of the mitigation plans designed to correct and prevent reoccurrence of the Reliability Standard violations.

The parties to the Settlement Agreement submitted that the following factors should be taken into account by the Board in considering the justification for the proposed financial penalty:

- a. The violations constituted MH's first occurrence of violations of NERC Reliability Standards;
- b. MH was cooperative throughout the process;
- c. There is no evidence of any attempt by MH to conceal the violations, nor evidence of intent to do so;
- d. MH self-reported the violation of TOP-004-2, R4; and
- e. The alleged violations did not harm the grid (a risk anticipated by the Violation Risk Factor for the assigned degree of severity for the violation pursuant to NERC guidelines).

The Board accepts that these are appropriate factors to consider in making its findings.

With this being the first reported non-compliance of mandatory reliability standards in Manitoba, the Board commends both MH

and MRO in effectively implementing the Interim Agreement. The Board recognizes that the fundamental purpose of mandatory and enforceable reliability standards is to ensure grid reliability.

With that in mind, the Board acknowledges that MH voluntarily reported its non-compliance; this demonstrates MH's commitment to preserving the integrity of the grid and its support for mandatory and enforceable reliability standards.

In the Board's review of the Settlement Agreement, the Board notes that MH neither contested the allegations nor contest MRO's findings of MH's non-compliance, nor oppose the recommended sanction of \$25,000.

The mitigation plans prepared by MH, to address the alleged violation of Reliability Standards, have been submitted and accepted by MRO, and both parties have agreed that actions described in the mitigation plans will serve to prevent future violations (of the type that occurred in September 2008).

The Green Action Centre posed no objection to the Settlement Agreement. And, while the Board notes SCO's concerns about its perception of a lack of transparency by MH in response to SCO's interrogatories, it reminds SCO that the application was filed by MRO and NERC. As such, the responses to SCO interrogatories were provided by the MRO and NERC, and not MH.

The Board concurs that, as the Applicant, NERC and the MRO were best suited to address SCO's questions.

Accordingly, the Board finds no merit in SCO's assertion that MH was unwilling to commit to transparent and open communication within the process.

Board decisions may be appealed in accordance with the provisions of Section 58 of The Public Utilities Board Act, or reviewed in accordance with Section 36 of the Board's Rules of Practice and Procedure (Rules). The Board's Rules may be viewed on the Board's website at [www.pub.gov.mb.ca](http://www.pub.gov.mb.ca).

**IT IS THEREFORE ORDERED THAT:**

1. The application by The Midwest Reliability Organization and the North American Electric Reliability Corporation for confirmation of Manitoba Hydro's violation of Reliability Standards TOP-004-2, R4 and COM-002-2, R1.1 BE AND IS HEREBY APPROVED.
  
2. The application by The Midwest Reliability Organization and the North American Electric Reliability Corporation for approval of the Settlement Agreement between the Midwest Reliability Organization and Manitoba Hydro, including the proposed penalty of \$25,000 to be paid into an escrow account established by Manitoba Hydro and reported to the Board, BE AND IS HEREBY APPROVED.

3. The application by The Midwest Reliability Organization and the North American Electric Reliability Corporation for acceptance of the Mitigation Plans to address Manitoba Hydro's violation of Reliability Standards TOP-004-2, R4 and COM-002-2, R1.1 BE AND IS HEREBY APPROVED.

THE PUBLIC UTILITIES BOARD

"GRAHAM LANE, CA  
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Chairman

"H. M. SINGH"  
\_\_\_\_\_  
Acting Secretary

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No. 137/10 issued by The Public  
Utilities Board

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Acting Secretary