



**BRITISH COLUMBIA
UTILITIES COMMISSION**

CONFIDENTIAL

**ORDER
NUMBER R-4-15**

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IN THE MATTER OF
the Utilities Commission Act, RSBC 1996, Chapter 473

and

Innergex Renewable Energy Inc.
Contesting Alleged Violation of Mandatory Reliability Standards:
EOP-008-0 Requirement 1 – Violation ID: BCUC2013000467
PER-002-0 Requirement 1 – Violation ID: BCUC2013000470
PER-002-0 Requirement 2 – Violation ID: BCUC2013000458
PER-002-0 Requirement 3 – Violation ID: BCUC2013000471
PER-002-0 Requirement 4 – Violation ID: BCUC2013000472
PER-003-0 Requirement 1 – Violation ID: BCUC2013000473

BEFORE: D. M. Morton, Panel Chair/Commissioner
L. E. Kelsey, Commissioner
N. E. MacMurchy, Commissioner

February 13, 2015

O R D E R

WHEREAS:

- A. Order G-123-09 approved the Compliance Monitoring Program (CMP), which provides a process for dealing with violations of Mandatory Reliability Standards (MRS) adopted by the British Columbia Utilities Commission (Commission);
- B. On July 25, 2014, the Western Electricity Coordinating Council (WECC), acting as the Commission's MRS Administrator, issued a Notice of Alleged Violation (NOAV) to Innergex Renewable Energy Inc. (Innergex) for the alleged violation of the Reliability Standards listed above. The NOAV described the nature of the Alleged Violations and provided an assessment of the severity of the Alleged Violations. The NOAV also cited section 4.1.1 of the CMP, pursuant to which a NOAV will be treated as confidential unless and until the Commission confirms the Alleged Violation(s);
- C. On December 2, 2014, by Order R-58-14 and in accordance with section 4.2.5.3 of the CMP, the Commission established a hearing into the NOAV and requested WECC and Innergex to comment on their availability and willingness to participate by way of a Streamlined Review Process (SRP). Both parties were also invited to file evidence that pertains to any formal relationship between Innergex and the British Columbia Hydro and

Power Authority (BC Hydro) as it relates to this matter and to provide a submission on whether or not BC Hydro should be included as a party to this hearing;

- D. In its January 14, 2015 submission, Innergex requested the following:
1. An order that amends section 3 of Order R-60-14 to remove the limit on the scope of the review;
 2. An order directing a without prejudice settlement meeting in order to allow the parties the opportunity to negotiate and resolve the Alleged Violations prior to any further advancement of the review;
 3. An order setting out a pre-hearing conference to establish the format and the procedural matters for the review, which shall include an oral hearing if settlement is not reached; and
 4. In the event the BCUC proceeds to determine the Alleged Violations, an order setting aside the Alleged Violations and confirming that CWEI was not in breach of any MRS and that CWEI was in full compliance with Order G-122-10;
- E. On January 27, 2015, the Panel determined it was appropriate to expand the scope of the hearing to include consideration of Recital H of Order G-122-10, including the context and prior correspondence related to that recital. Accordingly, the Commission amended Directive 3 of Order R-60-14 to include this information. The Commission also determined that consideration of items 2, 3 and 4 in Recital J be deferred until the responses to information requests are reviewed;
- F. On February 11, 2015, both WECC and Innergex filed responses to information requests; and
- G. The Panel has reviewed the responses to information requests and, for the Reasons set out in Appendix A to this Order, considers it appropriate to respond to certain items at this time and to proceed remaining issues after final argument.

NOW THEREFORE pursuant to the *Utilities Commission Act* and the British Columbia Utilities Commission's Compliance Monitoring Program, the Commission:

1. Denies Innergex's requests for:
 - a. An order directing a without prejudice settlement meeting in order to allow the parties the opportunity to negotiate and resolve the Alleged Violations prior to any further advancement of the review; and
 - b. An order setting out a pre-hearing conference to establish the format and the procedural matters for the review, which shall include an oral hearing if settlement is not reached.
2. Amends the Regulatory Timetable as set out in the Reasons for Decision in Appendix A to this Order.

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3

3. Defers consideration of item 4 in Recital D until final arguments are reviewed.

DATED at the City of Vancouver, in the Province of British Columbia, this 13th day of February 2015.

BY ORDER

Original Signed By:

D. M. Morton
Panel Chair/Commissioner

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Reasons for Decision

On December 15, 2014, Innergex Renewable Energy Inc. (Innergex) requested the following:

- a. An order directing a without prejudice settlement meeting in order to allow the parties the opportunity to negotiate and resolve the Alleged Violations prior to any further advancement of the review;
- b. An order setting out a pre-hearing conference to establish the format and the procedural matters for the review, which shall include an oral hearing if settlement is not reached; and
- c. In the event the BCUC proceeds to determine the Alleged Violations, an order setting aside the Alleged Violations and confirming that CWEI was not in breach of any MRS and that CWEI was in full compliance with Order G-122-10.

For the reasons set out below, the Panel denies Innergex's requests (a) and (b) above.

By Order G-123-09, Directive 4, the Commission adopted the Compliance Provisions, "as defined in the Rules of Procedure for Reliability Standards in British Columbia, that accompany each of the adopted British Columbia reliability standards, in the form posted on the WECC website, as amended from time to time, or as directed by the Commission."

Section 4.2.3 of Appendix 2 of the Rules of Procedure, Compliance Monitoring Program, states: "If the Applicable Entity contests the Alleged Violation the Commission will hold a hearing."¹ The Panel is of the view that incorporating a negotiated resolution of the contested Alleged Violations into the hearing process is not appropriate. The resolution of a contested Alleged Violation requires a determination from the Commission, and that cannot be done through a negotiated resolution.

With regard to an Oral Hearing, the Panel is not persuaded there is need for any further interrogatories. Both parties have had an opportunity to ask questions and all questions that were asked have been answered.

Accordingly, the Panel directs that parties provide final arguments in accordance with the Regulatory Timetable set out below. Arguments must be provided in a written format, or, if the parties mutually agree, orally, either in person or by telephone, on a date to be determined. Parties are requested to notify the Commission by no later than February 18 whether oral arguments are mutually agreeable, and, if so, provide blackout dates between March 2 and March 13 inclusive.

As no determination has yet been made on the Alleged Violation, the Panel defers consideration of item (c) outlined above until final arguments are reviewed.

¹ Rules of Procedure for Reliability Standards in British Columbia, Appendix 2: Compliance Monitoring Program, p. 13.

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Regulatory Timetable

If the parties notify the Commission that they mutually agree to Oral Arguments:

ACTION	DATE (2015)
Parties notify the Commission they mutually agree to Oral Arguments	Wednesday, February 18
Oral Arguments	TBD

If the parties do not notify the Commission that they mutually agree to Oral Arguments:

ACTION	DATE (2015)
WECC Final Argument	Friday, February 27
Innergex Final Argument	Friday, March 6
WECC Reply Argument	Friday, March 13