



**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER R-29-15**

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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 April 27, 2015
N. E. MacMurchy, Commissioner

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. Section 4.2 of the CMP provides an entity 30 days to respond to a NOAV and allows that if the entity fails to respond within 30 days, the Commission may consider the Alleged Violations in the absence of a submission. The CMP also provides that if contested, WECC shall review any additional information submitted by the entity and may withdraw the NOAV, issue a revised NOAV or issue a letter affirming the NOAV. If the entity contests the revised NOAV or WECC affirms the NOAV, the Commission will hold a hearing;

- D. By email dated September 9, 2014, Innergex contested the Alleged Violations identified above with reasons, following which, with further review, WECC affirmed the NOAV;
- E. On November 19, 2014, Innergex submitted that it continues to contest WECC's Alleged Violations and exercised its right to a hearing on the matter. Specifically, Innergex requested the Commission conduct a private oral hearing;
- F. 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);
- G. On December 15, 2014, WECC and Innergex filed comments. Innergex requested a settlement discussion with WECC and the Commission. WECC submitted that it is conditionally amenable to an SRP if the Commission limits its review to only issues concerning the application and interpretation of the standards as applicable to a Generator Owner (GO), Generator Operator (GOP), Transmission Owner (TO) and/or a Transmission Operator (TOP). WECC noted if the hearing is to consider whether some GO/GOP/TO/TOPs should be subject to fewer standards than others, then an SRP may not be suitable;
- H. On December 19, 2014, by Order R-60-14, the Panel established a preliminary Regulatory Timetable, directed WECC and Innergex to file any remaining evidence on this matter by January 9, 2015, and noted the evidence will be open to examination by way of one round of information requests (IRs). The Panel limited the scope of the hearing to the following:
 - 1. Has WECC properly interpreted and applied the standards?
 - 2. If WECC properly interpreted and applied the standards, has WECC proven that Innergex did not comply with the standards?
- I. On January 8, 2015, Innergex requested extending the evidence filing deadline to January 14, 2015. On January 9, 2015, the Panel granted the request;
- J. 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;

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- K. 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, by Order R-2-15, 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 the IRs are reviewed;
- L. On February 11, 2015, both WECC and Innergex filed responses to IRs;
- M. On February 15, 2015, by Order R-4-15, the Commission denied Innergex's requests for a settlement meeting and a pre-hearing conference. The Commission also deferred consideration of item 4 in Recital J until final arguments are reviewed. The Commission amended the Regulatory Timetable to allow for written final arguments, or, if the parties mutually agree and notify the Commission, oral arguments. The parties did not notify the Commission;
- N. On March 26, 2015, the Panel issued a supplemental IR to WECC and amended the Regulatory Timetable to allow for response and arguments on the Panel IR. On April 2, 10 and 15, 2015, WECC provided response, Innergex provided Final Argument, and WECC provided Reply Argument on the Panel IR; and
- O. The Commission has reviewed the submissions and considers confirmation of the Alleged Violations is warranted.

NOW THEREFORE pursuant to section 125.2 of the *Utilities Commission Act* and section 4 of the Compliance Monitoring Program, for the Reasons attached to this order as Appendix A, the Commission confirms the Alleged Violations identified above.

DATED at the City of Vancouver, in the Province of British Columbia, this 27th day of April 2015.

BY ORDER

Originally Signed By:

D. M. Morton
Panel Chair/Commissioner

Attachment



IN THE MATTER OF

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

REASONS FOR DECISION

April 27, 2015

BEFORE:

D. M. Morton, Panel Chair / Commissioner

L. E. Kelsey, Commissioner

N. E. MacMurchy, Commissioner

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1.0 BACKGROUND

On July 29, 2010, by Order G-122-10, the British Columbia Utilities Commission (Commission) approved the registration of Cloudworks Energy Inc. (CWEI)¹ for the functions of Generator Owner (GO), Generator Operator (GOP), Transmission Owner (TO) and Transmission Operator (TOP). The registration was based on CWEI's six Generating Facilities which have a combined capacity of 150 MVA and are tied together with a 138 kV collector system to a common 138 kV bus and step up transformers to 360 kV before being connected to the British Columbia Hydro and Power Authority (BC Hydro) system at Upper Harrison Terminal. The operation of these facilities meet the North American Electric Reliability Corporation (NERC) definitions for Transmission Owner/Operator and Generation Owner/Operator.

On July 25, 2014, the Western Electricity Coordinating Council (WECC) issued a Notice of Alleged Violation (NOAV) to CWEI for the following Mandatory Reliability Standards (MRS) and requirements:

- EOP-005-1 R1, R6
- EOP-008-0 R1
- FAC-008-1 R1
- PER-002-0 R1, R2, R3, R4
- PER-003-0 R1
- PRC-001-1 R1, R3
- PRC-005-1 R1, R2
- PRC-017-0 R1, R2.

On September 9, 2014, in response to WECC's NOAV, CWEI accepted the Alleged Violations for:

- EOP-005-1 R1, R6
- FAC-008-1 R1
- PRC-001-1 R1, R3
- PRC-005-1 R1, R2
- PRC-017-0 R1, R2

but contested the Alleged Violations for:

- EOP-008-0 R1
- PER-002-0 R1, R2, R3, R4
- PER-003-0 R1 (Remaining Alleged Violations).

In its response, CWEI provided an explanation of its position. WECC reviewed CWEI's explanation and on October 24, 2014, WECC issued a notice confirming the NOAV.

¹ CWEI was subsequently acquired by Innergex Renewable Energy Inc., but is referred to as CWEI in this decision.

The Compliance Monitoring Program states that a NOAV will be treated as confidential unless and until the Commission confirms the Alleged Violation as a Confirmed Violation. The Applicable Entity may contest the Alleged Violation, provide an explanation of its position, and include any supporting Information, and that if the Applicable Entity contests the Alleged Violation the Commission will hold a Hearing.²

On November 19, 2014, CWEI filed a letter with the Commission explaining that it continues to contest the Remaining Alleged Violations and requested that the matter be dealt with by way of a private oral hearing.

On December 2, 2014, the Commission issued Order R-58-14, establishing a confidential hearing process and on December 19, 2014, the Commission issued Order R-60-14, establishing a preliminary Regulatory Timetable, which provided for the filing of evidence by both WECC and CWEI, a round of information requests on that evidence and a tentative Streamlined Review Process date of February 17, 2015. The Commission also limited the scope of the proceeding to the following:

- a. Has WECC properly interpreted and applied the standards?
- b. If WECC properly interpreted and applied the standards, has WECC proven that CWEI did not comply with the standards?³

On January 14, 2015, CWEI and WECC filed evidence. At that time CWEI submitted that it seeks the following relief:

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-122-10.⁴

CWEI also raised an issue concerning the interpretation of Recital H of Order G-122-10, stating that the order should be interpreted as a recognition by the Commission that CWEI does not have to comply with the same MRS that are imposed upon the operations of BC Hydro, but only those that apply to the operations of CWEI. Some MRS are simply inapplicable to the facilities owned and operated by CWEI.⁵

On January 27, 2015, by Order R-2-15, the Commission deferred consideration of items 2, 3 and 4 until the response to information requests were reviewed and expanded the scope of the proceeding to include

² Compliance Monitoring Program, s. 4.1.1, 4.2.2, 4.2.3.

³ Order R-60-14, p. 3.

⁴ Exhibit C1-6, p. 12.

⁵ Ibid, p. 4.

consideration of Recital H of Order G-122-10. On February 11, 2015, both WECC and CWEI filed responses to information requests.

On February 13, 2015, by Order R-4-15, the Commission denied CWEI'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.

Order R-4-15 also deferred consideration of CWEI's request that, in the event the Commission 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 until final arguments are reviewed. In addition, the Regulatory Timetable was amended and the parties were given the opportunity to proceed to an oral argument phase, if they mutually agreed, otherwise the hearing would proceed to written arguments. The parties did not notify the Commission of a mutual agreement and subsequently the hearing proceeded to written arguments.⁶

2.0 ORDERS SOUGHT

CWEI seeks the following relief:

1. A determination that the MRS requirements that are the subject of the Remaining Alleged Violations do not apply to CWEI and as such CWEI cannot be held in violation of these MRS.⁷
2. In the event the BCUC proceeds to determine the Remaining 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-122-10.⁸

3.0 CWEI'S CURRENT REGISTRATION STATUS

CWEI put forward a number of arguments concerning the applicability of the MRS requirements in question. The Panel will consider these arguments before examining the Remaining Alleged Violations.

3.1 Reliance on Order G-122-10, Recital H

Recital H of Order G-122-10 (Recital H) states:

⁶ Exhibit A-8, Order R-4-15.

⁷ Innergex Final Argument, p. 9.

⁸ Exhibit C1-6, p. 12.

The Commission has considered the Arguments and determines that the Generation facilities of [CWEI] meet the criteria of BC Regulation 2(d)(iii) and the 138 kV collector bus and step up transformers meet the definition of transmission facilities connected to the Bulk Transmission System. Furthermore, [CWEI] meets the definition of Transmission Owner, Transmission Operator, Generator Owner and Generator Operator according to the NERC Glossary of Terms adopted by Order G-67-09. The Commission also notes that although [CWEI] is required to register for some of the same functions as the Provincial Transmission Network owner and operator it will not have the same requirements under the prescribed standards and therefore does not have the same level of reporting. [CWEI's] level of accountability is the same as any other registered Entity.⁹

In its Final Argument, CWEI cites a portion of Recital H:

...although [CWEI] is required to register for some of the same functions as the Provincial Transmission Network owner and operator it will not have the same requirements under the prescribed standards and therefore does not have the same level of reporting.¹⁰

CWEI argues that the wording of the cited portion of the recital created flexibility in relation to the application of the MRS requirements prescribed for TO, TOP, GO and GOP. It further argues that the Commission has the power and authority to impose upon CWEI, standards different from those applicable to BC Hydro.¹¹ CWEI also submits that it relied on the wording of Recital H and “had the Order not purported to create this flexibility CWEI would have addressed the issue differently rather than risk exposure to violation sanctions. CWEI's actions are fair and reasonable in light of the wording in recital H and industry practice and CWEI did abide with the letter and spirit of Order G-122-10, as issued by BCUC.”¹²

Commission determination

For the reasons outlined below, the Panel finds that Recital H does not exempt CWEI from TO/TOP MRS requirements.

There was a difference in the “level of reporting” of CWEI and the Provincial Transmission Network owner and operator, British Columbia Transmission Corporation (BCTC), at the time of the order. By Commission Order G-29-10, dated February 25, 2010, BCTC was registered for the following seven functions:

- Balancing Authority;
- Planning Authority;
- Transmission Planner;
- Transmission Service Provider;

⁹ Order G-122-10, Recital H.

¹⁰ Innergex Final Argument, p. 3. Emphasis added by CWEI.

¹¹ Ibid., pp. 3–4.

¹² Ibid., p. 4.

- Distribution Provider;
- Transmission Owner; and
- Transmission Operator.¹³

By Commission Order G-122-10, CWEI was registered for the following four functions:

- Generator Owner;
- Generator Operator;
- Transmission Owner; and
- Transmission Operator.¹⁴

Recital H, which states that CWEI is “...required to register for some of the same functions as the Provincial Transmission Network owner and operator,” refers to the functions of Transmission Owner and Transmission Operator.

The wording “...it will not have the same requirements under the prescribed standards and therefore does not have the same level of reporting” refers to the fact that BCTC must comply with and report on all requirements of all reliability standards associated with seven functions rather than only four functions.

Further, CWEI cites only a portion of Recital H. It failed to cite the closing sentence of Recital H. “[CWEI’s] level of accountability is the same as any other registered entity” underscores that all registered entities must comply with and report on all requirements of all reliability standards associated with their registered function(s).

In the Panel’s view, a reasonable person operating in this environment, as is CWEI, will not interpret this recital as exempting CWEI from any MRS requirement that applies to a TO or a TOP.

3.2 Deactivation and Consistency with the US

CWEI submits that “[s]ince the BCUC issued Order G-122-10 there has been an evolution to the manner in which MRS are interpreted and applied to electrical facilities such as those owned and operated by CWEI” and that “WECC have begun processing deactivation requests to deregister entities with similar facilities from the function of Transmission Owner and Transmission Operator. As a result CWEI has made an application to WECC to deactivate from the functions of Transmission Owner and Transmission Operator...”¹⁵

In CWEI’s view, “this evolution to the manner in which MRS are interpreted and applied to electrical facilities is clearly confirming the flexibility provided in Order G-122-10.” Accordingly, it believes that its interpretation of the order is reasonable. It cites paragraphs 52 and 53 of the Federal Energy Regulatory Commission (FERC) Order 785, which it claims “clarify this approach.” Paragraph 52 states that “it may be appropriate to waive a significant portion of the standards or requirements generally applicable to transmission owners and operators,

¹³ Order G-29-10.

¹⁴ Order G-122-10.

¹⁵ Innergex Final Argument, p. 4.

even if the entity is technically registered as a transmission owner or operator.” Paragraph 53 states that “the generator owner or operator should only be obligated to comply with those Reliability Standards and requirements necessary to close the identified reliability gap.”¹⁶

Commission determination

The Panel has previously found that Recital H of Commission Order G-122-10 does not exempt CWEI from any TOP MRS requirements. **Accordingly, the Panel finds that Order G-122-10 provides no flexibility with regard to the way that MRS are applied.** In BC, the MRS is applied according to the *Utilities Commission Act*, BC MRS Regulations and Rules of Procedure for Reliability Standards in BC. Therefore any evolution in the way that MRS are applied in the US does not support any flexibility in Order G-122-10.

4.0 MRS IN DISPUTE

4.1 EOP-008-0 R1 – Loss of Control Center Functionality

EOP-008-0 R1 states:

Each Reliability Coordinator, Transmission Operator and Balancing Authority shall have a plan to continue reliability operations in the event its control center becomes inoperable. The contingency plan must meet the following requirements:

R1.1 - The contingency plan shall not rely on data or voice communication from the primary control facility to be viable.

R1.2 - The plan shall include procedures and responsibilities for providing basic tie line control and procedures and for maintaining the status of all inter-area schedules, such that there is an hourly accounting of all schedules.

R1.3 - The contingency plan must address monitoring and control of critical transmission facilities, generation control, voltage control, time and frequency control, control of critical substation devices, and logging of significant power system events. The plan shall list the critical facilities.

R1.4 - The plan shall include procedures and responsibilities for maintaining basic voice communication capabilities with other areas.

R1.5 - The plan shall include procedures and responsibilities for conducting periodic tests, at least annually, to ensure viability of the plan.

R1.6 - The plan shall include procedures and responsibilities for providing annual training to ensure that operating personnel are able to implement the contingency plans.

¹⁶ Ibid., pp. 4–5.

R1.7 - The plan shall be reviewed and updated annually.

R1.8 - Interim provisions must be included if it is expected to take more than one hour to implement the contingency plan for loss of primary control facility.¹⁷

4.1.1 Does CWEI have a control center?

CWEI contests the Alleged Violation of EOP-008-0 R1, because it believes it does not have a Control Center as defined in the NERC Glossary of Terms.¹⁸ The NERC Glossary of Terms defines a Control Center as:

one or more facilities hosting operating personnel that monitor and control the Bulk Electric System ('BES') in real-time to perform the reliability tasks, including their associated data centers, of...a Transmission Operator for transmission Facilities at two or more locations, or... a Generator Operator for generation Facilities at two or more locations.¹⁹

CWEI submits that based on this definition of Control Center, it “does not have and is not required to have a control centre.”²⁰ It states that it does not monitor and control the BES in real time and that its role is to monitor and operate its own run of river generating facilities. In order to carry out this task, CWEI states that it “has a local control room which is only manned when needed.”²¹

In WECC’s view, CWEI does have a control center, stating that “TOPs are required to monitor and control their transmission systems. Wherever this monitoring and control occurs—a control center, ‘local control room’, etc., WECC considers that to be a control center.”²²

However, CWEI asserts that WECC’s statement “purports to amend the definition of Control Center as defined in the NERC Glossary of Terms.” In CWEI’s view, “WECC does not have the power or authority to amend a NERC definition and by doing so WECC has incorrectly applied EOP-008-0R1 to CWEI.”²³

In reply, WECC states that it:

...has not expanded the interpretation and meaning of the NERC definitions and applicability of Standards. WECC’s application of the Standards in B.C. is consistent with how it applies those Standards in the U.S. To date, WECC’s interpretation of the applicability of the Standards’ language has been confirmed by FERC for similarly situated U.S. entities, including confirming WECC’s finding of violations involving the same Standards and Requirements involved here.²⁴

¹⁷ Exhibit B-1, Table 3.

¹⁸ Innergex Final Argument, p. 5.

¹⁹ Exhibit C1-6, p. 7. Emphasis added.

²⁰ Innergex Final Argument, p. 5.

²¹ Exhibit C1-6, p. 7.

²² WECC Final Argument, p. 2.

²³ Innergex Final Argument, p. 6.

²⁴ WECC Reply Argument, p. 2.

Commission determination

The Panel finds that CWEI is subject to EOP-008-0 R1 and has a control centre.

As previously discussed, CWEI is registered as a TOP, and, as such, is subject to all the MRS that apply to TOPs. EOP-008-0 R1 requires all TOPs to “have a plan to continue reliability operations in the event its control center becomes inoperable.” The Panel agrees with WECC that whatever facility a TOP utilizes to monitor and control their transmission system is a control center, regardless of what the TOP calls that facility.

The Panel further notes that in Operating Order 4T-KWL-01, Harrison Hydro LP -Kwalsa Substation Boundary Isolation and Operating Procedures Agreement between CWEI and BC Hydro, CWEI provides a contact number of the Kwalsa Substation “control room.”²⁵

4.1.2 Is CWEI in violation of EOP-008-0 R1?

CWEI submits that it is not required to comply with the full extent of the requirements of EOP-008-0 R1, “but only to those that clearly apply to its operations.” It further submits that it does have contingency plans in place and that this is confirmed by the following determination of WECC:

The Audit Team determined CWEI has a procedure to determine its status given a loss of control center functionality scenario, although that procedure is not compliant with the Standard. However, CWEI operating personnel can describe the process it will follow to continue reliability operations, in the event its control center becomes inoperable.

CWEI has additional preventative, corrective and compensating controls. Any operation of the BPS [Bulk Power System] transmission elements under CWEI’s control is initiated by BC Hydro. BC Hydro has NERC-certified operators on duty at all times. If the BC Hydro operators identify any abnormal system conditions they instruct CWEI’s personnel on the proper operation of CWEI’s BPS elements.²⁶

Commission determination

The Commission Panel confirms the Alleged Violation EOP-008-0 R1.

CWEI is registered as a TO and a TOP, and, as such, all MRS that apply to a TO and a TOP apply to CWEI. There is no exception process currently in place and the Commission has made no previous order exempting CWEI from any standard or portion of a standard, or that would vary the scope of application of this, or any other, standard.

The Panel acknowledges that CWEI has a procedure in place in the event of a loss of control center functionality and that there are additional preventative, correcting and compensating controls. However, CWEI has not

²⁵ Exhibit C1-1, Exhibit 2 Local Operating Order 4T-KWL-01, p. 3 of 12.

²⁶ Exhibit C1-6, pp. 7–8.

demonstrated that this procedure is compliant with EOP-008-0R1. Accordingly, it cannot be relied upon to meet the requirements of this standard, although it may be a mitigating factor in the determination of any penalty that may be assessed. In this regard, the Panel notes that the WECC reasons cited by CWEI are in support of the determination that the violation posed minimal risk to the reliability of the Bulk Electric System, and are not in regard to the determination of the violation.

4.2 PER-002-0 R1, R2, R3 and R4 – Operating Personnel Training

PER-002-0 states:

R1. Each Transmission Operator and Balancing Authority shall be staffed with adequately trained operating personnel.

R2. Each Transmission Operator and Balancing Authority shall have a training program for all operating personnel that are in:

R2.1. Positions that have the primary responsibility, either directly or through communications with others, for the real-time operation of the interconnected Bulk Electric System.

R2.2. Positions directly responsible for complying with NERC standards.

R3. For personnel identified in Requirement R2, the Transmission Operator and Balancing Authority shall provide a training program meeting the following criteria:

R3.1. A set of training program objectives must be defined, based on NERC and Regional Reliability Organization standards, entity operating procedures, and applicable regulatory requirements. These objectives shall reference the knowledge and competencies needed to apply those standards, procedures, and requirements to normal, emergency, and restoration conditions for the Transmission Operator and Balancing Authority operating positions.

R3.2. The training program must include a plan for the initial and continuing training of Transmission Operator and Balancing Authority operating personnel. That plan shall address knowledge and competencies required for reliable system operations.

R3.3. The training program must include training time for all Transmission Operator and Balancing Authority operating personnel to ensure their operating proficiency.

R3.4. Training staff must be identified, and the staff must be competent in both knowledge of system operations and instructional capabilities.

R4. For personnel identified in Requirement R2, each Transmission Operator and Balancing Authority shall provide its operating personnel at least five days per year of training and drills

using realistic simulations of system emergencies, in addition to other training required to maintain qualified operating personnel.²⁷

WECC determined that CWEI has an Alleged Violation of PER-002-0R2 for its failure to provide evidence that it is staffed with adequately trained operating personnel. However, in the NOAVs for Reliability Standards PER-002-0 R2, R3 and R4, in a section titled “Reliability Impact and Severity Evaluation” WECC states:

Although CWEI could not provide evidence that it has a training program for its operation personnel, it is staffed with adequately trained operating personnel, and it relies on its operator’s institutional knowledge of its system.²⁸

WECC further explained that this “could have been stated differently; it merely describes a mitigating factor. It does not mean [CWEI] complied with the Requirements of PER-002-0, R1, -R2, -R3, and -R4. WECC’s statement simply recognized that although Innergex did not comply with the Standard, it was not completely without personnel who had operating knowledge or skills relative to [CWEI]’s facilities.”²⁹

CWEI submits that WECC’s statement “is clear and unequivocal. This was the conclusion reached by the WECC audit team having reviewed all of the information provided by CWEI and having interviewed various members of CWEI’s staff. WECC reached the conclusion that CWEI has ‘adequately trained operating personnel’ and it is irrelevant what they used this conclusion for i.e. mitigating factor or otherwise, as this conclusion makes it clear that CWEI has met the requirement in Standard R1 PER.002.0.”

WECC determined that CWEI has an Alleged Violation of PER-002-0R2 for its failure to have a training program for all operating personnel that are in positions that have the primary responsibility, either directly or through communications with others, for the real-time operation of the interconnected Bulk Electric System; and/or positions directly responsible for complying with the Standards.

In the case of R3, WECC determined that CWEI has an Alleged Violation for its failure to provide a training program for the eight employees identified in R2, and because CWEI did not have a training program, it could not meet the criteria contained in the sub-requirements of the Standard.³⁰

Regarding R4, WECC determined that CWEI has an Alleged Violation for its failure to provide the eight personnel identified in R2 at least five days per year of training, including realistic simulations of system emergencies, as laid out in the requirement.³¹

CWEI responds that it has an “institutionally-based training program” which is “designed to promote reliable system operations and safety of its personnel.” It further describes its training program as follows:

²⁷ Exhibit B-1, Tables 5–8.

²⁸ Ibid., Tables 6–8. Emphasis added.

²⁹ Exhibit B-8, p. 2.

³⁰ Exhibit B-1, Table 7.

³¹ Ibid., Table 8.

The Operating Order and corresponding interconnection agreement form part of the training provided to operations personnel. CWEI training involves an orientation process upon commencement of employment, class room technical training and on-the-job training. The one day class room technical training provided to new employees, details the data, functions, operations and maintenance of the equipment and auxiliary system (i.e., governor controller, excitation system). The class room training material includes, single line and schematic diagrams of the Kwalsa Energy Project. This is followed by on-the-job training conducted on site. During the on-the-job training, vendor training materials, which detail operations and maintenance procedures, are used and a competency assessment is conducted. Real-time emergency events are used to conduct training related to the Kwalsa Energy Project substation switching and transmission line operations. During this real-time emergency training, the Operating Order and system restoration plan are used and practically applied.³²

It also submits that as it does not have operating personnel that are responsible for the real-time operation of the interconnected BES or direct responsibility for NERC standards relating to Transmission Operator functions, standards PER-002 R2, R3 and R4 are not applicable to CWEI. It further argues that compliance with the full extent of the requirements in PER-002 R2, R3 and R4 “would not have any practical effect on or in any way increase the reliability of system operators”.³³

Commission determination

The Commission Panel confirms the Alleged Violation PER-002 R1, R2, R3 and R4.

In considering the issue of an Alleged Violation of MRS, the Panel is mindful of the following legal principle:

The interpretation of a statutory provision must be made according to a textual, contextual and purposive analysis to find a meaning that is harmonious with the Act as a whole. When the words of a provision are precise and unequivocal, the ordinary meaning of the words play a dominant role in the interpretive process. On the other hand, where the words can support more than one reasonable meaning, the ordinary meaning of the words plays a lesser role. The relative effects of ordinary meaning, context and purpose on the interpretive process may vary, but in all cases the court must seek to read the provisions of an Act as a harmonious whole.³⁴

While an MRS is not a statute, it derives its authority in British Columbia from a statute. Accordingly, the Panel considers that an MRS should also be read as a “harmonious whole.”

In reading this MRS as a harmonious whole, the Panel has conducted the following analysis: PER-002 is titled “Operating Personnel Training.” It contains four specific requirements. The fourth requirement, R4, prescribes

³² Exhibit C1-8, p. 10.

³³ Innergex Final Argument, pp. 7–8.

³⁴ [2005] 2 SCR 601, 2005 SCC 54, *Canada Trustco Mortgage Co. v. Canada*, para. 10.

an ongoing training requirement, R3 sets out the criteria for a training program; R2 stipulates which operating personnel are subject to the training program; and R1 states that operating personnel should be adequately trained.

In the Panel's view, compliance with R1 requires that the personnel identified in R2 should have completed the training program set out in R3 and be subject to ongoing training as required by R4. In order to comply with R2, it is not sufficient to just have a training program. The training program must adhere to the requirements laid out in R3.

In its evidentiary filing, CWEI states that it provides "institutionally-based" training and describes that training, but does not provide any evidence that this training meets the requirements of PER 002 0 R3 as outlined above. For example, there is no description or documentation provided in this proceeding of:

- the orientation process that CWEI asserts is provided upon commencement of employment;
- the vendor training materials, which CWEI states details operations and maintenance procedures; and
- the competency assessment which CWEI states is conducted as part of the on-the-job training.

Based on the evidence CWEI provided, it is not possible for the Panel to determine that the "institutionally-based" training program provided by CWEI is compliant with R3. The Panel also notes that WECC found that CWEI does not have a training program compliant with R3.

R4 requires that CWEI provide its operating personnel with at least five days per year of training and drills using realistic simulations of system emergencies. CWEI states that real-time emergency events are used to conduct training related to the Kwalsa Energy Project substation switching and transmission line operations. This does not meet the MRS requirement to use realistic simulations.

Further, there is no evidence before the Panel that CWEI's operators did undergo a training program as laid out in R2, R3 and R4. Accordingly, it is not possible for the Panel to find that CWEI's operating personnel are adequately trained as required by R1.

With regard to the statement made by WECC that although CWEI could not provide evidence that it has a training program for its operation personnel, it is staffed with adequately trained operating personnel, the Panel agrees with WECC that it could have been stated differently. The NOAV is intended to serve two functions: to inform the reader about the entities compliance with a reliability standard and to provide an assessment of the impact and severity of the violation. Because this statement was only made in the context of the impact and severity of the violation, the Panel is satisfied that WECC did not intend it to be interpreted in the context of the compliance assessment. It appears that WECC intended to suggest that the impact and severity of the violation was, in some respect, mitigated. In any event, the Panel has outlined above its framework for evaluating compliance with PER-002-0 and the failure of CEWI to comply with R2, R3 and R4 makes compliance with R1 impossible.

With regard to CWEI's argument that it does not have operating personnel that are responsible for the real-time operation of the interconnected BES or direct responsibility for NERC standards relating to Transmission Operator functions, the Panel disagrees. By Order G-122-10, CWEI was registered as a TO, TOP, GO and GOP. As such it is subject to all MRS that apply to TO and TOP. For example, PER-001-0.1, which came into effect December 10, 2009, before the CWEI audit, requires that "Each Transmission Operator and Balancing Authority shall provide operating personnel with the responsibility and authority to implement real-time actions to ensure the stable and reliable operation of the Bulk Electric System."

The Panel notes that in its Request for Transmission Owner and Transmission Operator Registration Deactivation, CWEI agrees that its facilities are included within the currently approved BES definition.³⁵ Further, CWEI submits that it uses "Real-time emergency events" to conduct training. These statements appear to contradict CWEI's assertion.

4.3 PER-003-0 R1 – Operating Personnel Credentials

PER-003-0 R1 states:

Each Transmission Operator, Balancing Authority, and Reliability Coordinator shall staff all operating positions that meet both of the following criteria with personnel that are NERC-certified for the applicable functions:

R1.1 - Positions that have the primary responsibility, either directly or through communications with others, for the real-time operation of the interconnected Bulk Electric System.

R1.2 - Positions directly responsible for complying with NERC standards.³⁶

WECC determined that "CWEI has an Alleged Violation of PER-003-0 R1 for its failure, as a Transmission Operator, to ensure that its operating personnel are NERC-certified for those positions that have primary responsibility for the realtime operation of the interconnected BES, and those positions directly responsible for complying with the Reliability Standards, as adopted by the BCUC."³⁷

CWEI submits that it does not have operating personnel that are responsible for the real-time operation of the interconnected BES or direct responsibility for NERC standards, and therefore PER-003-0R1 is not applicable, and CWEI cannot be found in violation of the standard.³⁸

WECC stated that "[CWEI] is required to have NERC-certified personnel for operating positions, and for positions that have the primary responsibility, either directly or through communications with others, for the real-time

³⁵ Exhibit C1-6, p. 382.

³⁶ Exhibit B-1, Table 9.

³⁷ Ibid., Table 9.

³⁸ Innergex Final Argument, p. 8.

operation of the interconnected BES (R1.1); and positions directly responsible for complying with the Standards (R1.2).”³⁹

CWEI submits that this interpretation by WECC extends the meaning of the wording in PER-003-0, and that WECC has neither the authority nor the power to do so.⁴⁰

Commission determination

The Panel has previously discussed the applicability of all TO and TOP MRS to CWEI. Accordingly, CWEI’s operating personnel have direct responsibility for complying with NERC standards. In addition, we have found that CWEI’s operating personnel are responsible for the real-time operation of the interconnected BES.

Therefore, the Panel confirms the Alleged Violation PER-003-0 R1.

The Panel finds no merit in CWEI’s argument that WECC has extended the meaning of the wording in PER-003-0. It has simply restated the wording in the standard that applies to CWEI.

³⁹ WECC Final Argument, p. 4.

⁴⁰ Innergex Final Argument, p. 8.