

▶ Ontario – US Comparator

Standard-Making and Enforcement Functions

Prepared by: ▶ Market Assessment and Compliance Division, IESO ▶ October 10, 2019

CURRENT RELIABILITY STANDARDS

For a list of reliability standards currently in effect in Ontario, please visit the IESO's website¹.

KEY ORGANIZATIONS IN ONTARIO'S ELECTRICITY SECTOR

ONTARIO MINISTRY OF ENERGY

The Ontario Ministry of Energy ("Ministry") is responsible for setting the policy and legislative framework for Ontario's electricity system. The Ministry develops solutions and advises on all aspects of energy policy for Ontario, including electricity, natural gas and oil. It also has legislative responsibility for the Ontario Energy Board ("OEB") and Independent Electricity System Operator ("IESO").

ONTARIO ENERGY BOARD

The Ontario Energy Board ("OEB") is an independent, quasi-judicial tribunal that regulates the province's electricity and natural gas sectors in the public interest. Its mandate is prescribed in legislation – primarily the Ontario Energy Board Act, 1998 and the Electricity Act, 1998 (the "Act") – and associated regulations. Part of the OEB's mandate is to protect the interests of consumers with respect to prices and the reliability and quality of electricity service. The OEB is the Governmental Authority for Ontario as defined by NERC. The OEB also has the legislative authority to stay or revoke the operation of a reliability standard in Ontario and refer it back to NERC or the NPCC for further consideration.

INDEPENDENT ELECTRICITY SYSTEM OPERATOR AND THE MARKET ASSESSMENT AND COMPLIANCE DIVISION

The Independent Electricity System Operator ("IESO") is a not-for-profit corporate entity established under the Act that manages the wholesale electricity market and oversees the reliable operation of the provincial electricity grid. The IESO evaluates Ontario's current and short-term electricity needs as well as the adequacy and reliability of the integrated power system. The IESO is also responsible for establishing and enforcing reliability standards and participating in developing standards made by standards authorities². The IESO is subject to the OEB's oversight authority.

The Act also authorizes the IESO to make and enforce rules ("Market Rules") that govern the operation of Ontario's electricity system. The IESO's compliance and enforcement activities have been delegated to an independent business unit called the Market Assessment and Compliance Division ("MACD") through a

¹ <http://www.ieso.ca/Sector-Participants/System-Reliability/Enforcement-Dates>

² "Standards authority," as defined by the Act, means the North American Electric Reliability Corporation (NERC) and "any other agency or body designated by regulation that approves standards or criteria applicable both in and outside Ontario relating to the reliability of transmission systems." Ontario Regulation 214/08 has designated the Northeast Power Coordinating Council (NPCC) a standards authority in Ontario.

letter of delegation from the IESO's President and CEO to MACD's Director. As such, MACD makes all determinations and exercises all authorities accorded the IESO in the Market Rules concerning monitoring, investigation and the enforcement of rules and standards concerning the wholesale electricity system and market. MACD establishes and executes processes, procedures and programs for monitoring, investigating and imposing sanctions (including financial penalties) against Ontario market participants and the IESO.

The following table identifies the provincial organizations responsible for each of the functions that underpin the framework for monitoring and enforcing compliance with reliability standards in the province, and the U.S. organizations that support this framework. It also identifies the U.S. organizations that are involved in standards development, monitoring and enforcing compliance with reliability standards in the U.S.

FUNCTIONS		PROVINCIAL ORGANIZATION	RELEVANT US ORGANIZATION	US COMPARATOR
STANDARDS MAKING ³	Standards Development	Not Applicable ⁽¹⁾	NERC	NERC
	Standards Approval	OEB ⁽²⁾	Not Applicable	FERC
	Entity Registration	IESO ⁽³⁾	Not Applicable	NERC
COMPLIANCE MONITORING	Compliance Monitoring and Violation Detection	MACD ⁽⁴⁾	NPCC ⁽⁵⁾	NERC and NPCC
ENFORCEMENT PROCESSES	Execution of Investigations	MACD ⁽⁶⁾	NERC and NPCC ⁽⁶⁾	NERC and NPCC
	Violation Determination and Sanction Imposition	MACD ^(7, 8)	NERC and NPCC ⁽⁹⁾	FERC
APPEALS	First Hearing	Dispute Resolution Panel ⁽¹⁰⁾	NPCC ⁽¹¹⁾	NPCC Hearing Body
	Right of Appeal	OEB ⁽¹⁰⁾	NERC ⁽¹¹⁾	NERC Board of Trustees
	Further Right of Appeal	An order of the OEB can be appealed to Divisional Court on a matter of law or jurisdiction (OEB Act s. 33)	Not applicable ⁽¹¹⁾	FERC Board of Commissioners
OVERSIGHT	Approval of Ontario's Rules of Procedure	IESO Board and right of appeal to OEB	Not applicable	FERC
	Approval of Ontario's Compliance Monitoring and Enforcement Implementation Plan (CMEP)	MACD	Not applicable	NERC and NPCC
	Performance Oversight of CMEP	MACD ⁽¹²⁾	NERC and NPCC ⁽¹²⁾	NERC Board of Trustees Compliance Committee
	Case Review of Regional Entity Findings	Not applicable	Not applicable	NERC
	Violation Prevention and Outreach (including education)	MACD ⁽¹³⁾	NERC and NPCC ⁽¹³⁾	NERC and NPCC

TABLE DEFINITIONS

PROVINCIAL ORGANIZATION

The Ontario organization accountable and responsible for performing the function according to provincial legislation, or through delegation, for matters concerning Ontario entities.

RELEVANT US ORGANIZATION

The US organization responsible for performing the function according to an executed Memorandum of Understanding for matters concerning Ontario entities.

US COMPARATOR

The US organization that is responsible for performing the functions according to US law.

TABLE NOTES

(1) STANDARDS MAKING

The IESO has the authority under the Electricity Act to establish and enforce criteria and standards relating to the reliability of the Ontario integrated power system.

(2) STANDARDS APPROVAL

Generally, unless a NERC reliability standard is otherwise stayed or remanded (by the OEB) back to NERC, the standard will become effective in Ontario when it is declared in force in the United States, unless the standard has been developed in response to a regulatory directive that has not been approved by the NERC ballot body.

(3) ENTITY REGISTRATION

The IESO registers entities that intend to participate in the IESO-administered markets and connect physical facilities to the IESO-controlled grid. The IESO also establishes criteria⁴ by which certain market participants that own or operate elements of the Bulk Electric System, as defined by NERC, become subject to compliance with NERC reliability standards and NPCC directories.

(4) MACD MONITORING

MACD establishes procedures for monitoring Ontario market participants through the Ontario Reliability Compliance Program (ORCP), which includes audits and spot checks and is equivalent to the NERC-NPCC

⁴ See Market Manual 11.1 “Applicability Criteria for Compliance with NERC Reliability Standards and NPCC Criteria” on the IESO website

CMEP. The ORCP's implementation plan is published on the IESO website as part of the annual Compliance Monitoring Plan.

(5) NERC AND NPCC MONITORING

NPCC conducts audits, spot checks and self-certifications of the IESO in accordance with the NERC-NPCC Monitoring Program.

(6) INVESTIGATIONS

MACD investigates potential breaches of market rules and reliability standards across all Ontario market participants, including the IESO. In addition, NPCC may also conduct its own compliance investigations of the IESO.

(7) MACD VIOLATION DETERMINATION AND SANCTION IMPOSITION

MACD makes violation and sanction determinations for all Ontario entities and the IESO. Sanctions include, among other things, orders to:

- a) do "such things as may be necessary" to comply with the Market Rules;
- b) cease the act, activity or practice constituting the violation;
- c) impose record-keeping or reporting requirements on a market participant;
- d) issue a non-compliance letter and
- e) impose financial penalties.

The maximum financial penalty amount is \$1,000,000 per occurrence for each breach at issue.

(8) PUBLIC DISCLOSURE

When MACD makes a determination of a reliability standard violation or reliability-related market rule violation, the name of the responsible entity is made public on the IESO website. The level of detail disclosed for any violation varies according to what MACD deems necessary. NERC or NPCC do not disclose violations by Canadian entities. MACD sanctions are posted at:

<http://www.ieso.ca/Pages/Participate/Market-Oversight/Sanctions.aspx>

(9) NERC AND NPCC VIOLATION DETERMINATION AND SANCTION IMPOSITION

After determining that the IESO has violated a reliability standard, NERC and NPCC may impose non-financial sanctions. These sanctions may include additional reporting, development of a mitigation plan, additional auditing, and in the case of material threats to reliability, remedial action directives.

(10) APPEALS OF MACD DETERMINATIONS

An enforcement decision made by MACD can be contested through the IESO's Dispute Resolution Panel (DRP) process, which is composed of negotiation, mediation and arbitration stages. The award of a DRP

arbitrator can then be appealed to the OEB if it includes a financial penalty above \$10,000 or otherwise denies authorization for, or terminates, suspends or restricts, the relevant market participant's right to participate in the Ontario market.

(11) APPEALS OF NERC AND NPCC DETERMINATIONS

The IESO is the sole Ontario entity accountable to NERC or NPCC for compliance with NERC standards. If the IESO faces a violation determination or sanction by NERC or NPCC, it has a right to a compliance hearing with NPCC and a subsequent appeal to NERC. The IESO can also appeal any final NERC or NPCC order to the OEB.

(12) PEER REVIEW

MACD, NERC and NPCC can initiate a peer review of each other's compliance program with a mutually-agreed-upon scope of review.

(13) PREVENTION AND OUTREACH

Each of NERC, NPCC, MACD and IESO are involved in reliability standards compliance education and awareness activities to help prevent violations of reliability standards in Ontario.