

**SEPTEMBER 11, 2012**

**PRINCIPLES FOR DATA SHARING  
IN THE CONDUCT OF  
AN  
ELECTRIC RELIABILITY CROSS-BORDER EVENT ANALYSIS  
AND  
COMPLIANCE INVESTIGATION**

**PREAMBLE**

The United States Federal Energy Regulatory Commission (FERC) and the Federal-Provincial-Territorial Electricity Working Group (FPT Group) in Canada endorse the Principles outlined below.

These Principles are intended to guide future data-sharing arrangements amongst and between jurisdictions to enhance the reliability of the North American bulk power system.

The Principles are not intended to impose any legally-binding obligations on any government authorities that endorse them.

# PRINCIPLES

## Definitions and Application

1. In these Principles,
  - o “Confidential Information” means information that:
    - a) is confidential under Section 1500 of the Rules of Procedure of NERC<sup>1</sup> and clearly designated as confidential by the Registered Entity,
    - b) a Registered Entity reasonably believes is confidential and which the Registered Entity clearly designates as confidential,
    - c) is deemed confidential by applicable law or regulation of Canada or the United States, or
    - d) is deemed confidential by a Government Authority.
  - o “Cross-border Event” means a blackout or other major disturbance or event on the North American bulk power system and which spans or has an impact on both the Canadian and United States portions of the System.
  - o “GAC” means a government authority in Canada with statutory oversight over electric reliability or over international power lines (IPLs).
  - o “Government Authority” means
    - a) FERC, in the United States, or
    - b) a GAC, in Canada.

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<sup>1</sup> Government Authorities in Canada and FERC are not subject to or required to comply with the NERC Rules of Procedure.

- “Investigative Entity” means a cross-border Regional Entity of NERC whose footprint includes portions of Canada and the United States, or those Canadian entities which perform the same functions of investigation and case determination as a Regional Entity.
- “NERC” means the North American Electric Reliability Corporation.
- “Observer” means staff-level personnel of FERC or a GAC who have oversight responsibilities for electric reliability or the IPLs involved in the Cross-border Event.
- “Registered Entity” means an owner, operator or user of the bulk power system that is registered on the NERC Compliance Registry or any entity that is required to comply with reliability standards either through its status as a Registered Entity or through Canadian law.
- “Regional Entity” means an entity to which NERC has delegated authority to enforce reliability standards.

2. These Principles are intended to:

- a) apply in the context of an event analysis (EA) or compliance investigation (CI) of a Cross-border Event led by NERC or an Investigative Entity where NERC or the Investigative Entity have been authorized by law, or by the agreement of the jurisdictions affected by the event to carry out electric reliability standards compliance responsibilities, and
- b) guide the establishment of data-sharing arrangements between GACs and FERC.

These Principles are not intended to be legally enforceable. They are not intended to create any obligation or duty that would supersede any statutory obligation or duty of any Government Authority or Investigative Entity.

3. These Principles apply comparably in the context of a Government Authority's oversight of an audit conducted by NERC or an Investigative Entity.

## **General**

4. Government Authorities have a fundamental interest in:
  - a) ensuring that a Cross-border Event is analyzed and investigated expeditiously,
  - b) understanding the results of an EA or CI arising from such an event,
  - c) protecting Confidential Information to the extent permitted by their respective laws and regulations,
  - d) ensuring appropriate public dissemination of information relating to a Cross-border Event, and
  - e) developing data-sharing arrangements.
5. Sharing factual information related to the causes of a Cross-border Event and possible measures to prevent future events among Government Authorities is fundamental to attaining the objective of a reliable North American bulk power system.
6. Nothing in these Principles limits FERC or a GAC from exercising its statutory authority to initiate an independent audit or investigation of a Registered Entity under its respective jurisdiction; nor do these Principles expand the statutory authority of FERC or a GAC.

7. Mexico may utilize these Principles, as appropriate.

### **FERC and GAC Participation on Cross-Border EA and CI Teams**

8. FERC and GACs in jurisdictions that are directly affected by a Cross-border Event should have an opportunity to have Observers on a cross-border EA or CI team established by NERC or an Investigative Entity. In cases where Investigative Entities and U.S.-only Regional Entities have investigative powers, both may have representation on an EA or CI team.
9. Observers may exercise statutory advisory and/or oversight responsibilities in respect of Registered Entities or the portion of the North American bulk power system under their respective jurisdictions.
10. Observers must not serve as cross-border EA or CI report drafting team members or sign cross-border EA or CI reports.

### **Consent and Disclosure of Confidential Information**

11. NERC or an Investigative Entity conducting an EA or CI:
  - a) must obtain the written consent of the Registered Entity submitting Confidential Information, and of the Government Authority having reliability jurisdiction over the Registered Entity, before NERC or the Investigative Entity discloses the information to an Observer on a cross-border EA or CI team from another Government Authority that does not have reliability jurisdiction over the Registered Entity, provided however,

this Principle shall not affect the statutory authority that an Investigative Entity has to share information with such an Observer;

- b) is not required to obtain the written consent of the Registered Entity, or of the Government Authority having reliability jurisdiction over the Registered Entity, in order for NERC or the Investigative Entity to disclose to an Observer from another GAC on a cross-border EA or CI team Confidential Information pertaining to a transmission element over which the other GAC has jurisdiction;
- c) must disclose non-Confidential Information submitted by a Registered Entity to an Observer from a Government Authority on a cross-border EA or CI team.

12. A Registered Entity or Government Authority that does not consent to the disclosure of Confidential Information must provide written reasons why consent was not granted.
13. Observers who participate in a cross-border EA or CI may only create or keep a record arising from Confidential Information provided during that EA or CI where the Confidential Information falls within their Government Authority's jurisdiction.
14. Observers must disclose to all jurisdictions involved in a cross-border EA or CI any known statutory or other limitation on their ability to maintain the confidentiality of information to which they may have access.
15. FERC and GACs will use best efforts to protect from public disclosure, in accordance with applicable laws and statutes in their respective jurisdictions, Confidential Information relating to a Registered Entity that is not subject to their Government Authority's jurisdiction that they acquire during a cross-border EA or CI.

## **Reports**

16. NERC or an Investigative Entity should provide periodic reports on the progress of a cross-border EA or CI to Government Authorities with statutory oversight over electricity reliability in an area affected by a Cross-border Event, while respecting applicable confidentiality.
17. FERC and GACs should have access to interim and final cross-border EA and CI reports if such reports involve their respective jurisdictions.
18. Final EA reports pertaining to a Cross-border Event should be available to the public, subject to the redaction of Confidential Information.

## **Continued Cooperation**

19. FERC and GACs will use their best efforts to cooperate on the resolution of any issues that may arise in cross-border EAs and CIs with respect to data sharing.
20. These Principles do not prevent FERC and GACs from entering into inter-governmental agreements to exchange compliance-related information on a reciprocal basis at the staff level, in a particular matter or on a more general basis.