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Ministry of Energy
Ministère de l'Énergie

February 6, 2004

Mr. Kyle McSarrow
Deputy Secretary of Energy
United States Department of Energy
Forrestal Building
1000 Independence Avenue, Southwest
Washington, D.C. 20585

Dear Mr. McSarrow:

We are writing on behalf of the Canadian Federal, Provincial and Territorial Working Group on Electricity, a senior officials working group under the Canadian Council of Energy Ministers. The Council has directed the Working Group on Electricity to exchange information and views on the circumstances and implications of the failure of the power system on August 14, 2003, and on possible new United States' initiatives to implement mandatory electricity reliability standards. In keeping with this mandate, the Federal-Provincial-Territorial group has prepared the enclosed document entitled *The International Transmission Grid Requires an International Approach to Mandatory Reliability Standards*.

Given the importance of the reliability issue, we propose that senior officials from federal, provincial and territorial energy ministries meet with U.S. Department of Energy officials in February 2004 to establish a dialogue on these important matters. It would also be useful to meet with Commissioners of the U.S. Federal Energy Regulatory Commission. We envisage that the enclosed document would serve as the basis for discussion. The Canadian Embassy in Washington will be in contact with your office to organize the consultations.

Thank you for your attention to these matters. We are confident that by working together our respective governments can successfully address the challenges presented by the reliability issues.

Yours sincerely,

André Plourde
Assistant Deputy Minister
Energy Sector
Natural Resources Canada

Shane Pospisil
Assistant Deputy Minister
Office of Energy Supply and
Conservation
Ontario Ministry of Energy

enclosure

C.C.

Mr. Pat Wood III, Chairman, Federal Energy Regulatory Commission

Mr. Kellan Fluckiger, Alberta Department of Energy

Mr. Peter Ostergaard, British Columbia Ministry of Energy and Mines

Mr. Garry Hastings, Manitoba Department of Energy, Science and Technology

Mr. Jean Finn, New Brunswick Department of Energy

Mr. Chris Kieley, Newfoundland Department of Mines and Energy

Mr. Doug Matthews, Government of the Northwest Territories

Mr. Allan Crandlemire, Nova Scotia Department of Energy

M. Mario Bouchard, Ministère des Ressources naturelles, de la Faune et des Parcs

Mr. Jim Marshall, Saskatchewan Industry and Resources

February 2, 2004

The International Transmission Grid Requires an International Approach to Mandatory Reliability Standards

Background

Canada and the United States share an interconnected transmission network. Historically this interconnected network has enabled both countries to enjoy increased reliability and the economic benefits of complementary generation facilities. A voluntary, collaborative approach was used to set reliability standards. The North American Electric Reliability Council (NERC) developed the reliability standards that operated effectively in Canada and the United States.

The August 14, 2003 outage has demonstrated more than ever the critical nature of transmission reliability, and the impact of this outage raises the question of mandatory and enforceable reliability standards.

Mandatory and Enforceable Reliability Standards

Given the integrated nature of the electricity transmission grid in North America, it is clear that reliability standards must be the same or compatible on both sides of the border. Many governments in Canada have already demonstrated support for mandatory and enforceable reliability standards and have either passed legislation or have taken steps to put in place the necessary framework for implementing such standards in Canada.

In the event mandatory standards for the entire grid is the approach chosen, it is important to remember that they will only be workable from a Canadian perspective if they are created and enforced with the following principles:

1. Full and active participation of jurisdictions in Canada in the development of the standards. Our expectation is that NERC will be tasked to develop the standards through its collaborative stakeholder processes. This must include coordination with the relevant jurisdictions in Canada.
2. Standards must be acceptable to the relevant authorities in Canada.
3. The relevant authorities in Canada must have the same remand authority as the Federal Energy Regulatory Commission (FERC). Specifically, authorities in Canada must have the ability to review the proposed standards and either accept them or remand them to the Electric Reliability Organization (ERO) for further consideration.

The Reliability Standards Language in the U.S. Energy Bill

The Canadian federal and provincial governments support the approach for creation of reliability standards contained in the most recent U.S. energy bill. This language would allow for the creation of an ERO that would develop reliability standards for FERC approval in the U.S. In Canada, standards would be approved by the relevant authorities within each jurisdiction. FERC or the relevant authorities in Canada could either approve or remand the standards to the ERO but would not be able to change such standards. As a result, the ERO would be able to operate on an international basis in developing standards without raising issues about the extraterritorial application of U.S. law.

Any U.S. Regulatory Approach to Reliability Standards Implementation Must be Respectful of Jurisdictional Sovereignty

The interconnected nature of the transmission grid will necessarily require that reliability standards be the same or compatible on both sides of the Canadian/U.S. border. If FERC unilaterally establishes reliability standards, such standards will not apply in Canada unless adopted by the relevant authorities in Canada. Similarly, if any authorities in Canada were to establish standards without consultation, different and potentially inconsistent reliability standards could exist across the transmission grid. Thus, any unilateral regulatory approach to reliability standards implementation could undermine the reliability of the transmission grid.

Recent FERC statements indicate that FERC may seek to create mandatory standards under its existing authority if the U.S. Congress fails to pass an energy bill. In that event, FERC should use the approach outlined in the current legislation (as interpreted above) in order to have the greatest chance of success and be respectful of jurisdictions in Canada.

The Importance of International Cooperation in Establishing the ERO

Whether or not the bill passes, the effectiveness of the ERO as an international body will be affected by the regulations developed by FERC that guide its implementation. Accordingly, FERC must be mindful that the ERO must function as an international entity in drafting its rules. Cooperation with governments in Canada and the relevant authorities in each jurisdiction must occur in the development of the rules to establish an ERO. Such cooperation will explore the issues of ERO certification, reliability standards enforcement, ERO funding and delegations of ERO authority to regional entities.