

# Bulletin 2009-17 (July 22, 2009 Revision)

July 21, 2009

## **Interpretation of Rule 019 – Publication of Notice of Specified Penalty**

On July 10, 2009, the Market Surveillance Administrator (MSA) released a Notice to Market Participants respecting the MSA's interpretation of sections 5(1) and 5(2) of Commission Rule 019 – *Specified Penalties for Contravention of ISO Rules* (Rule 019) that took effect on July 1, 2008. In that Notice, the MSA determined that “for rule contraventions between July 1, 2008 and June 30, 2009, inclusive, the associated notices of specified penalty will not be made public except in the circumstances noted in subsection 5(2).”<sup>1</sup>

Sections 5(1) and 5(2) of Rule 019 state as follows:

### **Posting of Notice of Specified Penalty**

**5(1)** Subject to subsection (2), the Market Surveillance Administrator shall make public any notice of specified penalty issued for a contravention of ISO rules under section 52 of the Act, 30 days after the notice of specified penalty is issued and post the notice on the Market Surveillance Administrator website.

**(2)** Until June 30, 2009, the Market Surveillance Administrator shall not make public any notice of specified penalty issued for a contravention of the same ISO rule for a first or second contravention within a rolling 12-month period in the Penalty Table, unless the market participant has failed to pay the specified penalty or disputes the notice of specified penalty.

The interpretation of section 5(2) posted by the MSA on July 10, 2009 is not supported by the language used in sections 5(1) and 5(2) of Rule 019.

Section 5(2) of Rule 019 should be interpreted as written, and that irrespective of the date of a rule contravention, any notice of specified penalty issued after June 30, 2009 is to be made public, in accordance with the provisions of Rule 019.

The Commission is of the view that public confidence in the electricity market is supported by regulatory processes that are open, fair and transparent to the public. The Commission recognized that in moving from a prior legislative scheme that it was reasonable and in the public interest to establish a transition period, as described in section 5(2) above, where public disclosure would be somewhat more limited.

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<sup>1</sup> MSA Notice to Market Participants dated July 10, 2009.

Parties have been aware of the transition period deadline since the enactment of Rule 019 and as such, could have requested relief from section 5(2) of Rule 019 in advance of June 30, 2009. No requests for relief were received by the Commission. That transition period has now expired.

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(original signed by)

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