

Bulletin 2010-05

January 27, 2010

Revision of Rule 019 – Specified Penalties for Contravention of ISO Rules

The Alberta Utilities Commission (AUC or Commission) is inviting comments from market participants and interested parties respecting proposed changes to AUC Rule 019 – *Specified Penalties for Contravention of ISO Rules* (AUC Rule 019).

On July 29, 2009, the Commission issued [Bulletin 2009-20](#), which among other things, sought comments on the extent to which industry stakeholders would see benefit in opening AUC Rule 019 to further stakeholder consultation. The Commission received [comments](#) from ten parties and posted these comments to its website.

On November 26, 2009, the Commission issued [Bulletin 2009-30](#) in which the Commission noted the comments provided by parties with respect to proposed changes to the specified penalty tables in particular and to AUC Rule 019 in general. The Commission also noted the provisions of Bill 50¹ that addressed Alberta Reliability Standards and the need for possible amendments to AUC Rule 019.

Proposed amendments to AUC Rule 019 are attached to this bulletin. These changes are intended to reflect:

- the addition of new ISO rules to the penalty tables;
- additional flexibility with respect to self-reporting and posting of Notices of Specified Penalty;
- a simplification of the list of individuals to whom Notices of Specified Penalty are sent;
- changes to some of the penalty amounts; and
- caps the number of specified penalties per ISO rule in a rolling 12-month period to eight.

Each of these changes is red-lined on the attached amendment to AUC Rule 019.

Market participants and interested parties who wish to comment on the proposed changes to AUC Rule 019 are requested to submit written comments on or before **February 16, 2010**. Written comments should be addressed to darin.lowther@auc.ab.ca.

¹ The *Electric Statutes Amendment Act, 2009* which was proclaimed in force on December 9, 2009.

If you have any questions regarding this consultation, please contact John Esaiw at (403) 592-4479 or john.esaiw@auc.ab.ca or Darin Lowther at (403) 592-4507 or darin.lowther@auc.ab.ca.

Bob Heggie
Chief Executive
Alberta Utilities Commission

Rule 019

Specified Penalties for Contravention of ISO Rules

The Alberta Utilities Commission (Commission) has ~~approved amendments to~~ this rule ~~on March xx,~~ 2010.

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Definitions

1(1) In these rules:

- (a) “Act” means the *Alberta Utilities Commission Act*;
- (b) “asset” means an asset as defined in the ISO rules;
- (c) “Commission” means the Alberta Utilities Commission;
- (d) “ISO” means the Independent System Operator established under the *Electric Utilities Act*;
- ~~(e) “ISO rules” means the rules made by the Independent System Operator under the *Electric Utilities Act*.~~

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(2) For purposes of this rule, the 12-month rolling period is the period which is 365 days before the date on which the contravention of the ISO rules occurred.

Application

2 These rules apply to the contravention of ISO rules.

Notice of Specified Penalty

3(1) The Market Surveillance Administrator may issue a notice of specified penalty under section 52 of the Act for the contravention of the ISO rules listed in the Penalty Table.

- (2) A notice of specified penalty must state
- (a) the name of the market participant who is required to pay the specified penalty;
 - (b) the ISO identifier of the asset related to the contravention, if applicable;
 - (c) the date or dates of the contravention;
 - (d) the ISO rule that was contravened;

- (e) a description of the conduct of the market participant named, its officers, personnel, or agents, the activity or omission which resulted in the contravention or any other particulars relating to the contravention;
- (f) a description of the facts on which the Market Surveillance Administrator relied on to conclude that a contravention had taken place;
- (g) the amount of the specified penalty for each day of the contravention, if the contravention continues for more than one day;
- (h) whether any adjustment to the specified penalty was made due to the self disclosure of the contravention by the market participant;
- (i) the date, at least 30 days from the date of issuance, on which the payment of the specified penalty is due;
- (j) that failure to pay the specified penalty will result in a hearing or other proceeding before the Commission; and
- (k) that if the market participant named disputes the issuance of the notice, to inform the Market Surveillance Administrator of the dispute and that a hearing or other proceeding before the Commission will result.

(3) The Market Surveillance Administrator shall send the notice of specified penalty to the person in the position identified in the Penalty Table.

(4) The Market Surveillance Administrator must issue a notice of specified penalty under this section within,

(a) 2 years after the date on which the Market Surveillance Administrator first knew, or in the circumstances ought to have known of the contravention, or

(b) 4 years after the date on which the contravention occurred
whichever period expires first.

Penalty Assessment

4(1) The Market Surveillance Administrator shall determine the amount of the specified penalty in accordance with this section and the Penalty Table.

(2) For contraventions of the ISO rules listed in category 1, 2 or 3 of the Penalty Table, the Market Surveillance Administrator shall escalate the amount of the specified penalty at the level of reoccurrence in the Penalty Table, in accordance with the number of contraventions which have been issued in the 12-month rolling period, as follows:

- (a) by asset of the market participant, in the case where the Market Surveillance Administrator has issued less than five notices of specified penalties in relation to the same asset of a market participant as a result of one or more contraventions of the same ISO rule; or

- (b) by market participant, in the case where the Market Surveillance Administrator has issued five or more notices of specified penalties in relation to any asset of a market participant as a result of one or more contraventions of the same ISO rule.

(3) In the case where a market participant self-discloses a contravention of an ISO rule listed in the Penalty Table, the Market Surveillance Administrator shall determine the amount of the specified penalty in accordance with this section and the Penalty Table and reduce the amount of the specified penalty by 50%.

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(4) A self-disclosure statement referred to in subsection (3) must

- (a) be made in writing to the Market Surveillance Administrator prior to the ISO or the Market Surveillance Administrator contacting the market participant about the contravention;
- (b) include the name, address, telephone number and email address of the market participant;
- (c) describe in detail the contravention, including the ISO rule that was breached, the date, time and duration of the contravention of the ISO rule; and
- (d) any other information the market participant considers to be relevant to the events that took place.

Posting of Notice of Specified Penalty

5(1) 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, **no later than 45** days after the notice of specified penalty is issued and post the notice on the Market Surveillance Administrator website.

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(2) Where a market participant has failed to pay the specified penalty or disputes the notice of specified penalty and the notice of specified penalty is posted, the Market Surveillance Administrator shall

Deleted: (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. ¶

- (a) indicate on its website that the specified penalty has not been paid or that the notice of specified penalty is being disputed; and
- (b) post on its website the link to the decision of the Commission respecting the specified penalty.

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Contraventions prior to July 1, 2008

6(1) For purposes of subsection 4(2), the assessment of penalties shall be from the first contravention that occurred on or after July 1, 2008.

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Penalty Table

Nature of Contravention	First Contravention in a Rolling 12-month period	Second Contravention in a Rolling 12-month period	Third Contravention in a Rolling 12-month period	Fourth to Eighth Contravention in a Rolling 12-month period	Formatted Table Deleted: and Subsequent
<p>Category 1</p> <p>Failure to comply in whole or in part with the following ISO rules: 1.8, 3.2, 3.3, 3.4, 4.2, 4.3, 4.4, 4.5, 4.6, 6.2.3, 6.3.8, OPP 003.1, OPP 003.3</p>	<p>A specified penalty of \$500</p> <p>Notice of specified penalty to Senior Executive of Business Unit of the market participant involved in the contravention</p>	<p>A specified penalty of \$1,500</p> <p>Notice of specified penalty to Senior Executive of Business Unit of the market participant involved in the contravention.</p>	<p>A specified penalty of \$ 5,000</p> <p>Notice of specified penalty to Senior Executive of Business Unit of the market participant involved in the contravention.</p>	<p>A specified penalty of \$10,000</p> <p>Notice of specified penalty to the most senior executive of the market participant (i.e. President, Chief Executive Officer) or its parent company if the market participant is a wholly-owned subsidiary or affiliate.</p>	<p>Deleted: Notice of specified penalty to the most senior executive of the market participant (i.e. President, Chief Executive Officer) or its parent company if the market participant is a wholly-owned subsidiary or affiliate.</p> <p>Deleted: Notice of specified penalty to the most senior executive of the market participant (i.e. President, Chief Executive Officer) or its parent company if the market participant is a wholly-owned subsidiary or affiliate.</p>
<p>Category 2</p> <p>Failure to comply in whole or in part with the following ISO rules: 3.5.2, 3.5.3, 3.5.5, 6.2.2, 6.3.3, 6.3.5, <u>6.5.2, 6.5.3</u></p>	<p>A specified penalty of \$500</p> <p>Notice of specified penalty to Senior Executive of Business Unit of the market participant involved in the contravention</p>	<p>A specified penalty of \$1,500.</p> <p>Notice of specified penalty to Senior Executive of Business Unit of the market participant involved in the contravention.</p>	<p>A specified penalty of \$3,000.</p> <p>Notice of specified penalty to Senior Executive of Business Unit of the market participant involved in the contravention.</p>	<p>A specified penalty of \$5,000.</p> <p>Notice of specified penalty to Senior Executive of Business Unit of the market participant involved in the contravention.</p>	<p>Deleted: Notice of the specified penalty to the most senior executive of the market participant (i.e. President, Chief Executive Officer) or its parent company if the market participant is a wholly-owned subsidiary or affiliate with a copy to chair of the board of directors of the market participant or its parent company.</p> <p>Deleted: 1,000</p> <p>Deleted: 1,500</p> <p>Deleted: 2,000</p> <p>Deleted: Notice of specified penalty to the most senior executive of the market participant (i.e. President, Chief Executive Officer) or its parent company if the market participant is a wholly-owned subsidiary or affiliate</p> <p>Deleted: Notice of specified penalty to the most senior executive of the market participant (i.e. President, Chief Executive Officer) or its parent company if the market participant is a wholly-owned subsidiary or affiliate</p>
					<p>Deleted: Notice of the specified penalty to the most senior executive of the market participant (i.e. President, Chief Executive Officer) or its parent company if the market participant is a wholly-owned subsidiary or affiliate with a copy to chair of the board of directors of the market participant or its parent company.</p>

Penalty Table (contd.)

Category 3

For the purpose of category 3 contraventions the count of contravention in a rolling 12-month period begins on September 1, 2009.

Nature of Contravention	First Contravention in a Rolling 12-month period	Second Contravention in a Rolling 12-month period	Third Contravention in a Rolling 12-month period	Fourth to Eighth , Contravention in a Rolling 12-month period
Category 3 Failure to comply in whole or in part with ISO rule 6.6	A specified penalty of \$1,500 Notice of specified penalty in all cases to Senior Executive of Business Unit of the market participant involved in the contravention	A specified penalty of \$2,500 Notice of specified penalty in all cases to Senior Executive of Business Unit of the market participant involved in the contravention	A specified penalty of \$5,000 Notice of specified penalty in all cases to Senior Executive of Business Unit of the market participant involved in the contravention	A specified penalty of \$10,000 Notice of specified penalty in all cases to Senior Executive of Business Unit of the market participant involved in the contravention <u>Notice of specified penalty to the most senior executive of the market participant (i.e. President, Chief Executive Officer) or its parent company if the market participant is a wholly-owned subsidiary or affiliate.</u>

Deleted: For contraventions up to and including August 31, 2009.

Failure to comply in whole or in part with ISO rule 6.6 identified below.

Notice of specified penalty in all cases to Senior Executive of Business Unit of the market participant involved in the contravention.

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For contraventions up to and including August 31, 2009.

Failure to comply in whole or in part with ISO rule 6.6 identified below.

Notice of specified penalty in all cases to Senior Executive of Business Unit of the market participant involved in the contravention.

	Duration of Energy Market Dispatch Variance Greater than \pm 5 MW			
Maximum* Energy Market Dispatch Variance greater than \pm 5 MW	0 to less than 15 Minutes	15 to less than 30 Minutes	30 to less than 45 Minutes	45 Minutes or greater
greater than 5 to less than 15 MW	A specified penalty of \$500	A specified penalty of \$1,000	A specified penalty of \$1,500	A specified penalty of \$2,500
15 to less than 25 MW	A specified penalty of \$1,000	A specified penalty of \$1,500	A specified penalty of \$2,500	A specified penalty of \$5,000
25 to less than 50 MW	A specified penalty of \$1,500	A specified penalty of \$2,500	A specified penalty of \$5,000	A specified penalty of \$7,500
50 or greater MW	A specified penalty of \$2,500	A specified penalty of \$5,000	A specified penalty of \$7,500	A specified penalty of \$10,000

* The maximum energy dispatch variance is determined as the highest of the average dispatch variance calculated for each one-minute period during the dispatch variance event.

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Penalty Table (contd.)

For contraventions after August 31, 2009.