



February 23, 2010

Mr. Darin Lowther
Alberta Utilities Commission
5th Avenue Place
4th Floor, 425 – 1st Street SW
Calgary, AB, T2P 3L8

Dear Mr. Lowther:

Re: Bulletin 2010-06 – Introduction of Proposed Rule 027 - Specified Penalties for Contravention of Reliability Standards

The Alberta Electric System Operator (AESO) has reviewed the proposed new Commission Rule 027, as set out in the attachment to Bulletin 2010-06, dated January 27, 2010. AESO appreciates the opportunity to provide the following comments on the proposed new Rule 027.

1. Section 3(2)(f) states that the amount of the specified penalty apply on a per day basis, if the contravention continues for more than one day. For events of operational contraventions, this approach seems reasonable, but for contraventions that may have existed over long periods of time or contraventions that cannot be corrected or addressed immediately, this approach may not be reasonable.
2. Section 3(4)(b) states that the Market Surveillance Administrator must issue a notice of specified penalty within 4 years after the date on which the contravention occurred. Current monitoring audits are completed on a 5 year cycle, and may therefore identify contraventions older than the 4 year limit stated in this section. Such contraventions would therefore not be eligible for specified penalties, and presumably would need to be addressed through administrative processes. AESO established the 5 year cycle to align with the NERC compliance model and requests that the Commission give further consideration to the 4 year time limitation in this section.
3. Section 4(2) describes the use of 'Violation Severity Levels' in the determination of the appropriate specified penalty amount from the Base Penalty Table. The violation severity levels do not directly reflect the impact, risk, scope, or other components normally associated with assessing the severity of an event. Instead this 'severity' correlates more to the number or 'instances of failure'. AESO suggests that the penalty model should reflect the actual severity of the contravention, and that higher penalties be applied to contraventions that directly impact operations or reliability, and lower penalties be applied to contraventions that

indirectly impact operations or reliability, with the lowest penalties for those contraventions that relate to documentation or administration deficiencies.

4. Section 4(2) refers to an 'instance of a failure to meet a requirement or an element of a requirement in the reliability standard'. Some requirements in certain reliability standards define several actions to be taken. AESO suggests that further clarity is needed as to whether an 'instance' refers to not meeting one of the required actions of the requirement or refers to the number of times the 'requirement' has been contravened.
5. The Base Penalty Table, column 1 *Nature of Contravention*, references and implies that penalties will apply to both requirements and measures for some standards (eg. R1 and MR1). It is unclear as to how the Base Penalty Table would be used should there be contraventions of both a requirement and a measure. Furthermore, AESO does not agree that measures should be subject to penalties and has not designed the measures for that intent. The measure is intended to provide guidance as to how the actions in the requirement will be assessed or measured. AESO suggests that the Base Penalty Table apply only to requirements of a standard.
6. The Base Penalty Table includes specified penalties for contravention of standards applicable to AESO. AESO is seeking confirmation that the Commission intends that penalties be assessed against AESO, in light of the fact that any such financial penalties will ultimately be paid and borne by market participants.
7. The Base Penalty Table lists each standard/requirement within a specified Category. AESO suggests that a more administratively efficient structure would be to instead associate each standard with a particular Base Penalty Table Category at the time that the standard is approved. This would mitigate the need to revise the Base Penalty Table as each new standard is approved.
8. An alternative to the suggested approach in point 7 above is that Rule 027 be modified to indicate specified penalties for any reliability standards not specifically mentioned in the Base Penalty Table. Without such a modification, the only route for sanctions in the case of reliability standards not specifically mentioned in the Base Penalty Table would be through the higher effort administrative penalty process.
9. Section 4(10) states that the Market Surveillance Administrator may request the views of the ISO when approving a mitigation plan. AESO requests further clarification on the role, responsibility, and obligations of AESO in this regard and clarification on the intended scope of the 'view' to be provided by AESO. To that end, AESO proposes adding a sub-section to Section 10, stating that AESO is required to provide a technical opinion and a recommendation on the adequacy of mitigation plans submitted for review.
10. Further to Section 4(10), AESO also seeks clarification as to whether the Commission believes that monitoring of mitigation plans is required, and if so, who would be responsible for that function.
11. Section 4(11)(c) states that the degree and quality of cooperation by a market participant is a consideration in reducing a penalty. AESO supports this concept. However, AESO seeks clarification as to what the Commission means by 'degree and quality of cooperation'. AESO's view is that this should include consideration of such things as a market

participants' willingness to produce information in a timely manner, provision of organized data versus volumes of irrelevant data or volumes of data hiding the relevant data, etc.

AESO appreciates this opportunity to comment on the proposed changes to Rule 027 and hopes that these comments and suggestions will be helpful to the Commission. AESO looks forward to participating in any further consultation process regarding the Commission's proposed changes to Rule 027.

If you have any questions regarding these comments, please contact Peter Wong at peter.wong@aeso.ca or 403.539.2552.

Sincerely,

Peter Wong
Director, Compliance

cc: Heidi Kirrmaier – Vice President, Regulatory