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Alberta Utilities Commission  
5<sup>th</sup> Avenue Place  
4<sup>th</sup> Floor, 425 – 1<sup>st</sup> Street SW  
Calgary, Alberta T2P 3L8

Attn Darin Lowther:

**Re: Proposed Rule 027: Specified Penalties for Contravention of Reliability Standards - Comments of TransAlta Corporation**

TransAlta Corporation appreciates the efforts and approach of the Alberta Utilities Commission in developing a specified penalty regime for contraventions of reliability standards. TransAlta believes that the development of a specified penalty regime and the use of self-disclosures and mitigation plans will assist market participants in better managing the reliability of the bulk power system. It is important to have a regime that rewards market participants for self reporting and closing any gaps with regards to reliability, and conversely sets suitable fines for those instances where a market participant is not responding appropriately.

TransAlta provides the following specific comments on proposed Rule 027:

- The proposed rule addresses specified penalties for each day of a contravention. TransAlta believes that specified penalties for contraventions of reliability standards should only be imposed on a per incident basis. Our understanding is that in practice, most jurisdictions apply penalties on a per incident basis, reserving per day penalties for the most egregious situations. An example of a typical contravention of a reliability standard that one may see is where a market participant has not met a documentation requirement in a standard for a period of weeks or months. In that case, a multiple day penalty is likely not warranted. In particular, we view documentation issues as being less egregious, than those instances where specific aspects of a program are not implemented, for instance the testing of relays. If there is a multiple day contravention that is particularly egregious such that a single specified penalty is not considered sufficient by the MSA, the MSA has the ability to pursue an administrative penalty instead. Recommendation: Specified penalties be imposed only on a per incident basis.

- A reduction of 25% is proposed where there is an approved mitigation plan. TransAlta is concerned that this reduction is too low. TransAlta's understanding of the use of mitigation plans is to encourage compliance. Mitigation plans generally involve a significant amount of work on the part of the market participant. TransAlta believes that use of mitigation plans should encourage the market participant to fix the problem and help ensure reliability of the system. However, given the amount of work involved and the relatively small penalty reduction of 25%, TransAlta is concerned that this will not encourage the filing of mitigation plans. Recommendation: A completed mitigation plan combined with self-disclosure should reduce the specified penalty to zero.
- Mitigation Plans must be received by the MSA "no later than 45 days from the date of the referral from the ISO" to the MSA. However, section 4(9) does not speak to mitigation plans submitted where there has been a self-disclosure. Recommendation: Clarify the date for when mitigation plans are due in the case of self-disclosure.
- Section 4(9) requires that mitigation plans include an implementation date of no later than 90 days from the date of the contravention, and a completion date of no later than 180 days from the date of contravention. First, TransAlta is unclear as to what is intended by implementation, and why there is a need for both an implementation and completion date. Second, TransAlta is concerned that these dates do not provide adequate time to the market participant. Carrying out and completing mitigation plans could take longer than the time frames provided given the time required to plan, engineer, procure, and construct any long lead time items. In addition, where works need to be installed and commissioned these must be coordinated with plant planned outage schedules. While some mitigation plans could take less than a month to complete, others could take two years. The deadlines of 90 and 180 days are arbitrary and in no way reflect the actual time required. Recommendation: A mitigation plan should simply be required to include a completion date. The MSA/ISO can determine whether they believe that date is reasonable based on the plan itself and can consider that in approving the mitigation plan.
- The proposed rule includes an Adjustment Penalty Table. TransAlta is of the view that the Adjustment Penalty Table should not be included for these reasons:
  - Adjustment for concealment (s.4(11(e)) – TransAlta considers that if a party has engaged in concealment, that should automatically be considered for an administrative penalty because of the seriousness of that conduct as concealment implies intent to mislead.
  - There should be no adjustments of a specified penalty upwards. The MSA always retains discretion to seek an administrative penalty rather

than a specified penalty. If the MSA considers that a penalty greater than the specified penalty is warranted due to such things as a lack of cooperation by the market participant, a significant number of repeat contraventions with little or no reasonable effort to remedy the problems, concealment, or the reliability impact of the contravention, then the MSA should seek an administrative penalty.

- The MSA should be provided with discretion to reduce a specified penalty based on circumstances such as cooperation, quality of the compliance plan, whether the contravention was for a documentation breach which does not impact reliability (as opposed to a performance breach that does have a reliability impact), etc. TransAlta considers that it would be more appropriate for the MSA to retain discretion as to the appropriate reduction rather than set out maximum reductions in a penalty table.

Recommendation: Do not include an Adjustment Penalty Table, but do provide the MSA with the discretion to reduce specified penalties in appropriate circumstances. The MSA already has the discretion under the legislation to seek a higher penalty in the form of an administrative penalty in appropriate circumstances.

- The Base Penalty Table provides for notices to be sent to the Senior Executive of the Business Unit of the market participant with escalation to the most senior executive where the specified penalty is \$10,000 or higher. TransAlta believes that notification to the Compliance Officer of the market participant would be appropriate in all circumstances as the Compliance Officer will ensure notification to the appropriate executives within the company. If there are a significant number of penalties and the compliance problem is not being resolved, by default, the senior most executive should be aware of the problem. Recommendation: For all specified penalties notification should be provided to the designated Compliance Officer of the market participant.
- Section 4(2) sets out Violation Severity Levels for Category 1, 2 and 3 contraventions, and speaks of the number of instances of a failure to meet a requirement or an element of a requirement. Clarification is required as to what constitutes an “instance”. For example, if there are 4 requirements in one standard which are each failed once, does this result in a Severe Violation Severity Level, or four Lower Violation Severity Level events? Does a Severe Violation Severity Level only result from four violations of the same requirement?
- Section 4(3) provides Violation Severity Levels for Category 4 offences which appear to be based on the percentage a measure has been contravened. It is not clear

what these percentages are based on how and how they would be assessed. Is BAL-001-AB-0a the only reliability standard that will fall under Category 4 or it is anticipated that other standards will fall under Category 4 in the future? If so, how will the determination be made to include a reliability standard as Category 4? Further, TransAlta does not consider it appropriate to base the Violation Severity Levels on measures identified in the requirements. Measures help determine how to identify compliance; they are essentially like tests for whether you are in compliance with the standard. Any penalties should be based on compliance with the requirements of a standard. Recommendation: Remove the violation severity levels based on measures and clarify the use of Category 4.

- There are references in the Base Penalty Table to contraventions of both requirements (R) and measures (MR) in a reliability standard (e.g. Category 1 – PRC-004-AR-1 (R2 and MR2)). However, it does not make sense to be fined for contravening both a measure and a requirement, as it only the requirements that a market participant can contravene. As indicated above, measures are simply a tool to determine whether you are in compliance with a requirement. For example, in PRC-001-AB-1, Requirement 1 is “The operating personnel of the ISO, TFO’s and operators of generating units must each be familiar with the purpose and limitations of protection system schemes applied in its area”. Measure 1 is “Training records are available that indicate training of staff who operate the system in protection system schemes and any RASs applicable within their system”. In this example, the measure (training records available) acts as a way of testing or auditing that the requirement (operating personnel familiar with the protection system schemes) is met. Recommendation: Clarify that market participants will not be subject to duplicate penalties by being fined for contravention of both a requirement and the corresponding measure. Remove all references to measures as a basis for imposing a specified penalty.

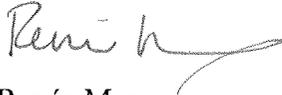
- Will penalties for contraventions of reliability standards be determined on a per unit basis or a company basis?

- Implementation of Rule 027 and subsequent new reliability standards. What is the AUC’s intention regarding Rule 027 as new reliability standards are implemented? Will the AUC continually issue revisions to Rule 027 to include the new standards in the appropriate categories? Has the AUC considered having the category of penalty be included in the reliability standard itself rather than Rule 027?

TransAlta believes there is some urgency to the Commission adopting Rule 027 given the schedule for the introduction of the reliability standards; however it also important to ensure that the right rule is adopted and in that regard TransAlta appreciates the

Commission's efforts in developing Rule 027. TransAlta thanks the Commission for considering our comments.

Yours truly,



Renée Marx  
Regulatory Counsel