



February 23, 2010

Alberta Utilities Commission
Fifth Avenue Place,
#400, 425 – 1 Street SW
Calgary, Alberta
T2P 3L8

Attention: Darin Lowther, Director, Market Rules

Dear Mr. Lowther

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

ATCO Power appreciates the efforts of the Commission to advance dialogue on the application of specified penalties to the Alberta Reliability Standards. Many aspects of the formalized introduction of Reliability Standards in Alberta are still being shaped. While we fully support a specified penalty being applied to each of the Reliability Standards, we believe additional details beyond a specified penalty rule need to be considered and provided to participants.

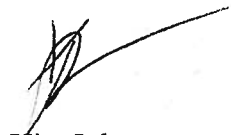
The North American Electric Reliability Corporation (NERC) Sanction Guidelines appear to form the basis of many design aspects proposed in Rule 027. The NERC Sanction Guidelines along with the Federal Energy Regulatory Commission (FERC) Policy Statement on Enforcement provide guiding principles and clarity to the application of the enforcement regime. Our interpretation of the NERC Sanction Guidelines is that each jurisdiction is afforded some flexibility to accommodate remedies that are suited to their jurisdiction's laws and regulations. From reviewing these documents and the draft of Rule 027 we have the following concerns and comments:

- In Alberta we have two basic penalty defaults, specified and administrative. Our understanding of the application of penalties has been that the Commission views specified penalties as a lesser breed of contravention. The application of the adjustment penalty table in the proposed rule does appear to be consistent with an interpretation of a lesser breed of contravention. We believe there needs to be a separation of potentially differing allegations. As an example, if a participant is alleged to have contravened a certain reliability standard it is a completely different allegation to then assess the participant for concealment.
- The treatment of the adjustment penalty table is highly subjective and the factors within the table have not been defined.

- The application of the penalty assessment in 4(3) for the contravention listed in Category 4 of the base penalty table provides specific criteria that clearly show the violation severity level that will be applied. No other categories provide this type of clarity though established criteria. We are uncomfortable with the level of discretion that would be applied to the assignment of the violation severity level due to a lack of specific criteria.
- As the Reliability Standards are new and companies are still engaged in a learning process of what is required, we would recommend the AUC consider a phase in approach similar to that of the NERC Sanction Guidelines where a first violation of a reliability standard is judged to be inconsequential and that the penalty be excused if certain criteria are met such as minimal or no impact on the reliability of the system.
- The use of other remedies such as mitigation plans or remedial action guidelines have not been clearly established and their potential application is not fully understood.

We believe Rule 027 could benefit from additional stakeholder consultation, as many of the elements in regard to reliability standards still require clarity. We would be pleased to participate in further consultation on Rule 027. If you have any questions related to our comments please contact the undersigned.

Regards,



Kim Johnston
ATCO Power